

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

December 6, 2012 Meeting

Agenda Item 5

SUBJECT: Uptown Newport Village - (PA2011-134)
4311-4321 Jamboree Road

- Environmental Impact Report No. ER2012-001
- Planned Community Development Plan Amendment No. PD2011-003
- Planned Community Development Plan Adoption No. PC2012-001
- Traffic Study No. TS2012-005
- Tentative Tract Map No. NT2012-002
- Affordable Housing Implementation Plan No. AH2012-001
- Development Agreement No. DA2012-003

APPLICANT: Shopoff Management, Inc. (Uptown Newport LP)

PLANNER: Rosalinh Ung, Associate Planner
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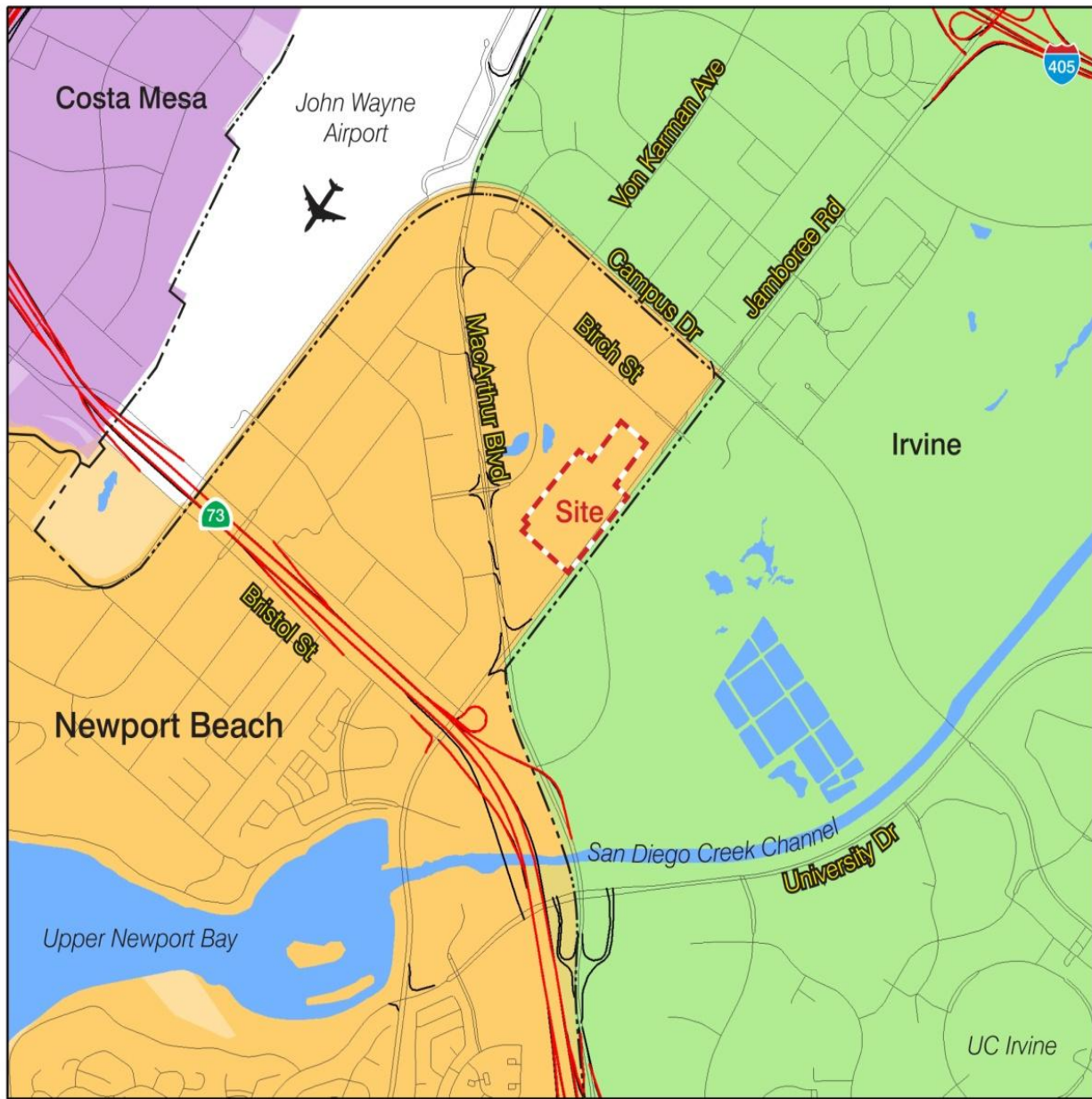
PROJECT SUMMARY

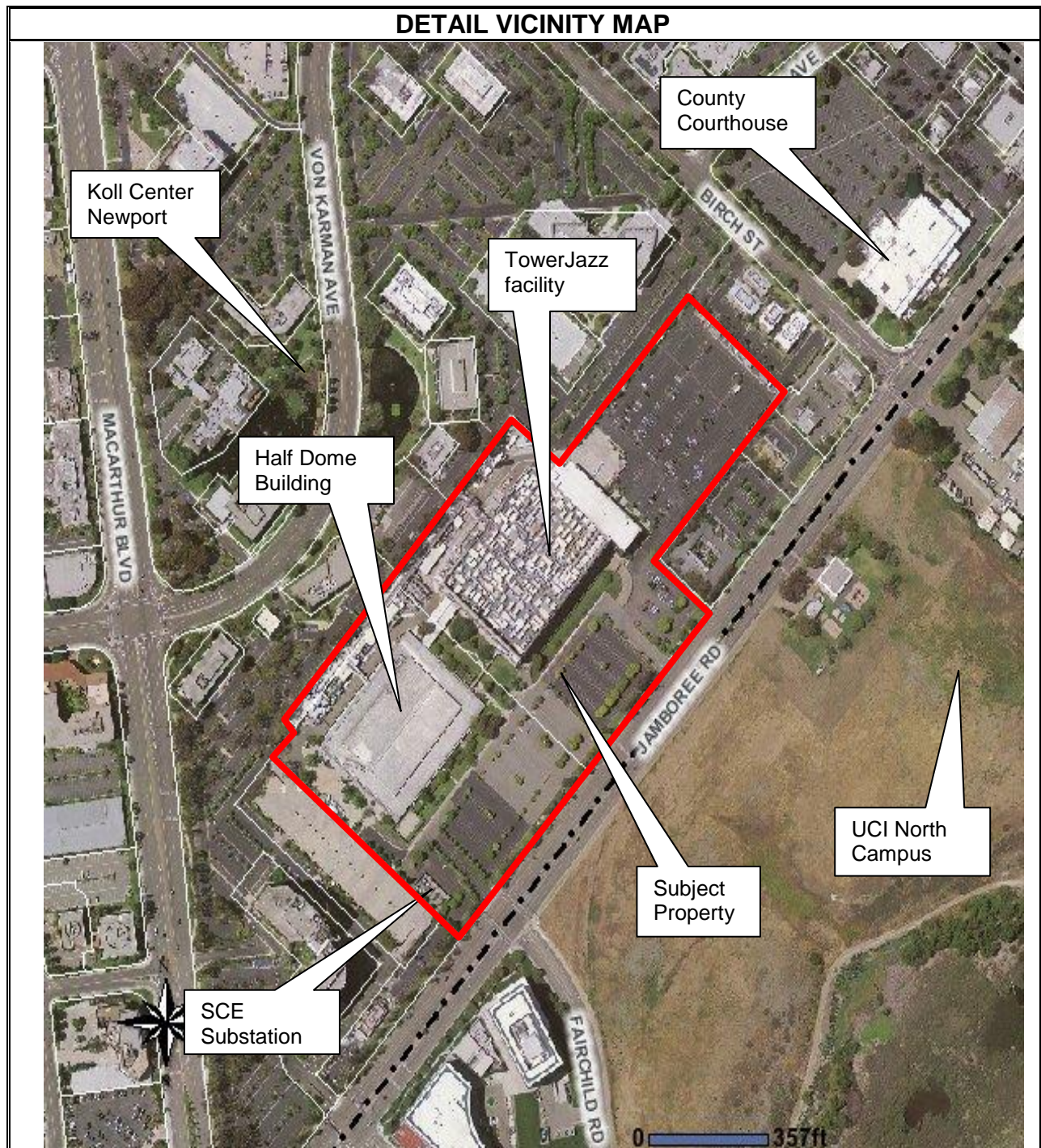
A proposed mixed-use residential planned community on 25.05-acre project site for the development of up to 1,244 residential units, 11,500 square feet of retail use, and two acres of public park space.

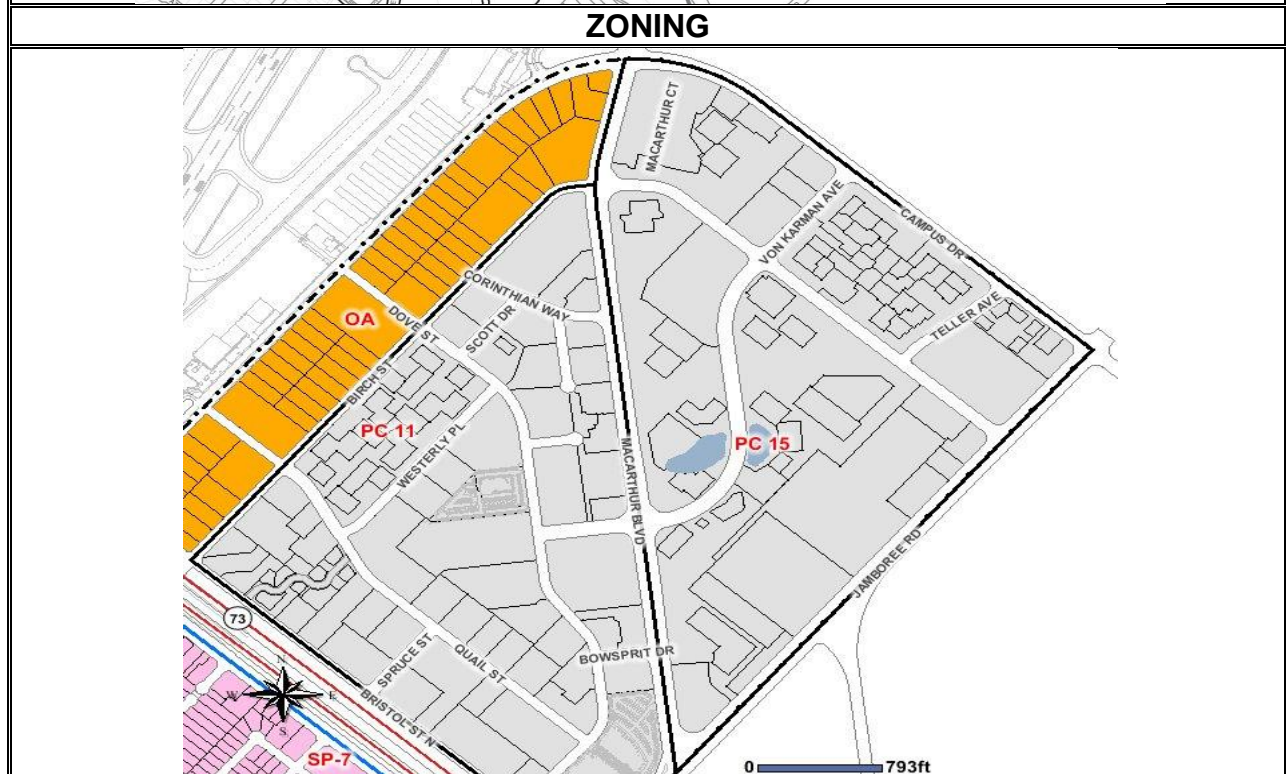
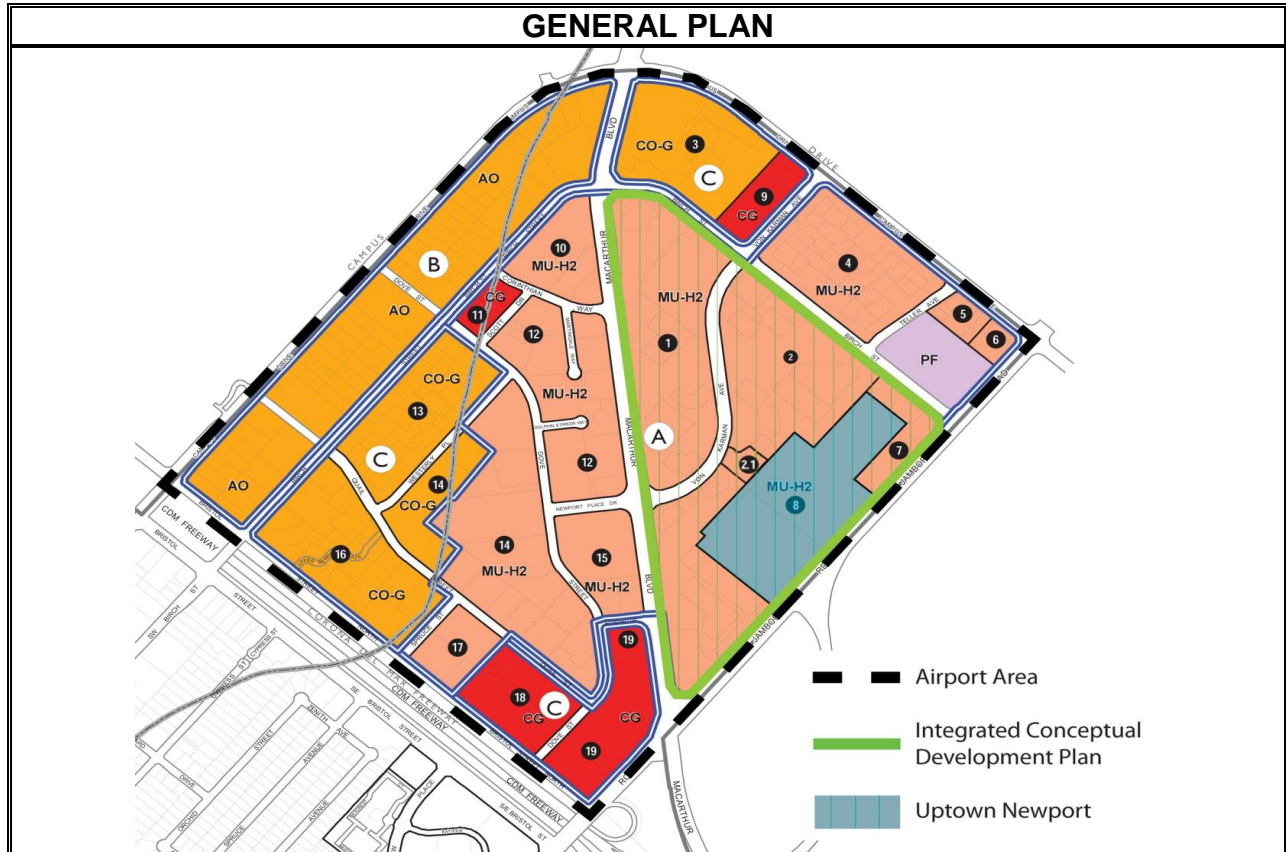
RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ (Attachment No. PC 1) recommending the City Council take the following actions:
 - a. Certification of Environmental Impact Report No. ER2012-001 (SCH#2010051094); and
 - b. Approval of Planned Community Development Plan Amendment No. PD2011-003, Planned Community Development Plan Adoption No. PC2012-001, Traffic Study No. TS2012-005, Tentative Tract Map No. NT2012-002, Affordable Housing Implementation Plan No. AH2012-001, and Development Agreement No. DA2012-003.

GENERAL VICINITY MAP



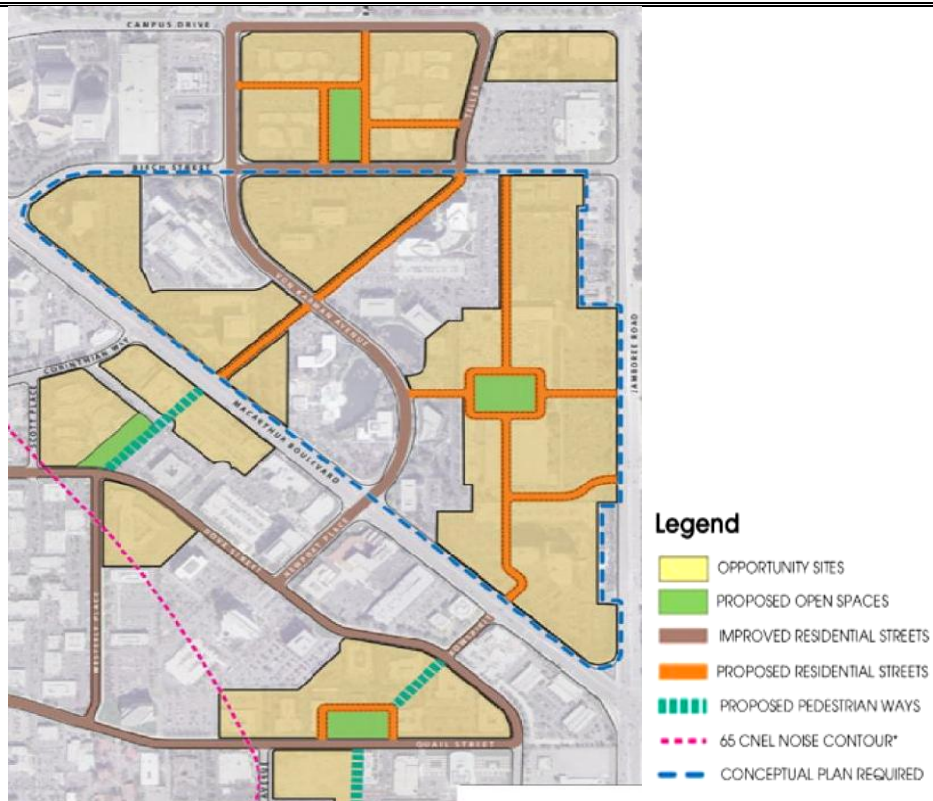




GENERAL PLAN FIGURE LU22



GENERAL PLAN FIGURE LU23



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	MU-H2 (Mixed-Use Horizontal 2)	Industrial Site 1 of PC 15 (Koll Center Newport Planned Community)	Office/Industrial
NORTH	MU-H2	PC 15	Office Developments
SOUTH	UCI North Campus	UCI North Campus	UCI North Campus
EAST	MU-H2/UCI North Campus	PC15 & UCI North Campus	Office/Commercial Developments & UCI North Campus
WEST	MU-H2	PC 15	Office Developments

INTRODUCTION

Project Setting

The subject property is located within the Airport Area and approximately 25.05 acres in size. The property is currently developed with two office/industrial buildings that are being leased to TowerJazz Semiconductor. The northernmost building located at 4321 Jamboree Road ranges from 40 to 50 feet in height and 311,452 square feet in size. The southernmost “Half Dome” building located at 4311 Jamboree Road, is approximately 25 feet in height and 126,675 square feet in size. A Southern California Edison (SCE) substation is located at the southwest corner of the property and it presently serves the existing industrial uses. The balance of the site is developed with landscaping and surface parking lots. Vehicular access to the project site is provided by two driveways from Jamboree Road (one signalized) and one driveway from Birch Street.

The site is surrounded to the north, west, and south by commercial/office uses within the Koll Center Newport office park. To the north are clusters of office buildings ranging from 1 to 15 stories in height, and three restaurants. To the west are office buildings ranging from 1 to 4 stories high, landscaped areas, and two man-made lakes. To the south are two 20-story office buildings, surface parking, and a fast-food restaurant. Jamboree Road forms the eastern boundary of the project site, and beyond Jamboree Road to the east is undeveloped open space within the North Campus of the University of California, Irvine. The North Campus is designated for mixed-use development with office, commercial and retail, university and non-university related residential and support uses. The San Joaquin Freshwater Marsh Reserve is approximately 875 feet southeast of Jamboree Road.

Project Description

The proposed Uptown Newport project consists of the removal of existing office and industrial uses over time in two primary phases and the construction of a mixed use community consisting of 1,244 residential units, 11,500 square feet of neighborhood-serving retail space, and approximately two acres of park space. Residential product types would be for-sale and rental with a mix of townhomes, mid- and high-rise apartment or condominiums. Of the 1,224 housing units, 185 units would be set aside for affordable housing. Proposed buildings would range from 30 feet to 75 feet in height; with several residential towers up to 150 feet high. Vehicular access to the site would be from Jamboree Road, Birch Street, and Von Karman Avenue.

Phase 1 will include demolition of the existing single-story office building “Half Dome”, and development of the westerly portion of the property and the frontage along Jamboree Road. Phase 1 will include up to 680 residential units and up to 11,500 square feet of retail space, and is projected to commence in 2013 and to be completed in 2018. Phase 2 will include demolition of the existing TowerJazz building, and development of the remaining 564 residential units on the easterly portion of the property.

Timing for Phase 2 construction would be contingent on the existing lease of the TowerJazz facility, which will expire in March 2017, but could be extended to March 2027 by TowerJazz. It is conservatively assumed that Phase 2 construction could commence as early as Spring 2017, with project build-out through the year 2021.

The applicant, Shopoff Management, Inc. on behalf of Uptown Newport LP, is the master developer and would be responsible for the project implementation including the followings:

- Demolition, site preparation, and rough grading;
- Backbone storm drain, sanitary sewer, water distribution, and utility systems;
- Street improvements within the development, including street paving, curb and gutter, sidewalk/bike improvements, and lighting;
- Common area fencing and walls;
- Two (2), 1 acre neighborhood parks;
- Landscape improvements within common areas and paseos, project entries, and Jamboree Road sidewalk/bike trail improvements
- Community signage

The application consists of the following components:

- Environmental Impact Report No. ER2012-001 (SCH#2010051094): An Environmental Impact Report (EIR) to evaluate the environmental impacts resulting

from the proposed project, in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Section 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Section 15000 et seq.).

- Planned Community Development Plan Amendment No. PD2011-003: An amendment to Planned Community Development Plan #15 (Koll Center Newport Planned Community) to remove the subject property from the Koll Center Newport Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.
- Planned Community Development Plan Adoption No. PC2012-001: A Planned Community Development Plan (PCDP) adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space, pursuant to Chapter 20.56 of the Municipal Code. The PCDP has three (3) components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.
- Tentative Tract Map No. NT2012-002: A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.
- Traffic Study No. TS2012-005: A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.
- Affordable Housing Implementation Plan No. AH2012-001: A program specifying how the proposed project would meet the City's affordable housing requirements, pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.
- Development Agreement No. DA2012-003: A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a & c of the Municipal Code and General Plan Land Use Policy LU6.15.12.

Background

On October 4, 2012, a study session was held for the proposed project to provide the Planning Commission and the public an opportunity to review and discuss the Draft Environmental Impact Report (DEIR) and proposed project. During the study session, the Planning Commission provided both oral and written comments on the proposed zoning documents, tentative tract map, and master site plan. The Planning Commission also commented on the overall approval process for the project implementation and expressed the need to review the master site development plans (preliminary grading, street improvement, landscape, wall/fence, lighting and signage plans) prior to recordation of any final subdivision maps. A discussion of vehicular and pedestrian connectivity between the Koll Center and project site also occurred. Comments by the general public were also considered.

DISCUSSION

Environmental Review

A DEIR has been prepared to evaluate the environmental impacts resulting from the proposed project, in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Section 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Section 15000 et seq.).

The DEIR was released for public review and comment on September 10, 2012. The 45-day public review period ended on October 24, 2012. During that period the City received 26 comment letters from governmental agencies, regional organizations, and individuals. In accordance with State CEQA Guidelines, the City has evaluated all substantive comments received on the Draft EIR, and has prepared written responses to these comments.

The Final EIR, consists of the DEIR, public comments, responses to comments, Mitigation Monitoring and Report Program, and revisions to the DEIR, is attached as Attachment PC 1B.

On the basis of the entire environmental review record, the proposed project will have a less than significant impact upon the environment with the incorporation of mitigation measures through the implementation of Mitigation, Monitoring and Reporting Program, with the exception of the following significant and unavoidable impacts:

- Air Quality – Short term construction-related emission for Phases 1 and 2 of the project
- Land Use – A determination of inconsistency with the John Wayne Airport Environs Land Use Plan (AELUP) by the Airport Land Use Commission (ALUC) (discussed below)
- Noise – Construction-related noise impacts for Phase 1 and Phase 2 of the project

The DEIR identified three (3) significant environmental impacts that cannot be mitigated to a less than significant level through the adoption of mitigation measures or project alternatives. Therefore, if the Planning Commission chooses to support the project, the Planning Commission will need to decide whether the benefits of the proposed project outweigh the identified significant environmental impacts. If the Planning Commission believes the overriding considerations, including project benefits, outweigh these unavoidable impacts, the Planning Commission may make a recommendation to the City Council to adopt the Statement of Overriding Considerations (Attachment PC 1C),

which states the reasons that support its actions as part of their review of the Final EIR and the proposed project.

General Plan and Integrated Conceptual Development Plan

The subject property has a General Plan Land Use Element designation of Mixed-Use Horizontal 2 (MU-H2), which provides for a horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses. The MU-H2 designation applies to a majority of properties in the Airport Area outside the high noise levels from John Wayne Airport. The MU-H-2 allows a maximum of 2,200 residential units as replacement of existing office, retail, and/or industrial uses at a maximum density of 50 units per adjusted gross acre. A total of 550 of these units are identified as additive units meaning they are not replacement units. These 550 units may be constructed as infill on existing surface parking lots or areas not used as occupiable buildings on properties within the Conceptual Development Plan Area (east of MacArthur Boulevard), as depicted on Figure LU22 Airport Area of the Land Use Element. The Conceptual Development Plan Area has strong potential for the introduction of new residential development and is further identified in Figure LU23 Airport Area Residential Village Illustrative Concept Diagram. Figures LU22 and LU23 are shown on page 5 of the staff report.

Prior to any residential development within the Airport Area, the General Plan Land Use Policy LU 6.15.11 requires the preparation of a Conceptual Development Plan to:

“Demonstrate the compatible and cohesive integration of new housing, parking structures, open spaces, recreational amenities, pedestrian and vehicular linkages, and other improvements with existing non-residential structures and uses.”

In September of 2010, the City approved the Koll-Conexant Integrated Conceptual Development Plan (ICDP), which provides a framework for the redevelopment of the 25-acre subject site (formally known as Conexant), and for the redevelopment of a 15-acre portion of the 75-acre Koll Center Newport office park between Birch Street and Von Karman Avenue with new residential development and open space, carefully integrated with the existing office buildings and parking structures.

The ICDP allocates a total of up to 1,504 new residential units: 1,244 of which are planned and could be developed on the property and the remaining 260 on the Koll property. All 260 of the new residential units on the Koll site would be “additive” units since no existing office or industrial uses would be removed. On the property site, up to 632 units would replace existing industrial and office uses that are planned to be demolished. The remaining 290 units would be additive. Also, on the property site includes the ability to construct up to 322 density bonus units onsite, to provide affordable housing in addition to that needed to satisfy the City’s inclusionary housing

requirements. Together, the two properties would use all of the 550 additive units prescribed for the Conceptual Development Plan area by the General Plan.

The approval of the ICDP was a pre-requisite for the preparation of the regulatory documents, pursuant to General Plan Policy LU6.15.11. The ICDP is aimed at fulfilling the policies of the General Plan, ensuring cohesive and livable neighborhoods oriented to parks and pedestrian ways, and a finer-grained network of pedestrian-friendly streets. The ICDP also establishes the direction for each of the property owners to separately prepare and submit a regulatory plan for their holdings as a basis for environmental review, public hearings and City action.

Regulatory Plans must be in substantial compliance with the intent of the ICP, particularly in terms of the number of additive residential units (except for any density bonuses for affordable units) and the connectivity between the Koll and subject property.

The subject property has a maximum development limit of 442,775 square feet per Anomaly No. 8 of the General Plan Land Use Element. In order to accommodate the proposed development, the applicant is requesting to convert only the existing office and industrial square footage of 438,127 to residential and commercial retail uses and forfeit the remaining unused square footage of 4,648. The conversion results in a total of 632 residential units and 11,500 square feet of retail commercial to be developed as replacement units for redevelopment of the existing office/industrial uses. The application of the conversion factors is documented in a report titled "Airport Area Residential & Mixed Use Adjustment Factors for Traffic Analyses in Newport Beach" prepared by Richard M. Edmonston, dated March 10, 2009.

Additionally, General Plan Land Use Policy 6.15.7 allows a maximum density of 50 units per net acre average over the total area of each residential village in the Airport Area. The net acreage is to be exclusive of existing and new rights-of-way, public pedestrian ways and neighborhood parks. The project has a net developable residential land area of 18.46 acres, which could allow for a maximum of 922 dwelling units (18.46 x 50 du/ac) inclusive of 290 additive and 632 replacement units (62 less units converted to 11,500 sf. of retail). The 290 "additive" units have been allocated to the subject property in accordance with General Plan Land Use Element and ICDP. This density is consistent with General Plan policies.

And lastly, up to 322 density bonus units are proposed based on the maximum 35% allowance pursuant to Chapter 20.32 (Density Bonus) of the Municipal Code. All together, a total of 1,244 residential units are being proposed for the project.

The table below illustrates the project's proposed replacement, additive and density bonus residential units.

	Phase 1 Units	Phase 2 Units	Total Units
Replacement Units			
Half Dome Building - 126,675 sf.	276	0	276
TowerJazz Building - 311,452 sf.	0	418	418
Total Replacement Units	276	418	694
Additive Units	290	0	290
Sub-Total Units	566	418	984
Less Units Converted to 11,500 sf. of Retail	-62	0	-62
Base Units Before Density Bonus	504	418	922
Density Bonus (35% Requested)	176	146	322
Total Units	680	564	1,244
Affordable Units (20%)	100	85	185
Market Rate Units	580	479	1,059

As of note, the density bonus units are not a part of the 2,200 units assigned to the MU-H2 properties and therefore, the remaining developable residential units for other MU-H2 designated properties within the Airport Area would be 1,278 residential units (2,200-922). The project is eligible for a density bonus of up to 35 percent above and beyond the allowable base residential units in accordance with Government Code Sections 65915 through 65917 and Chapter 20.32 Density Bonus of the Municipal Code.

The General Plan Land Use policies promote the introduction of residential and mixed-use development within the Airport Area, provided that such development contributes to the creation of viable neighborhood clusters with appropriate infrastructure, pedestrian-oriented features and open spaces, and with a pattern of development that offers a strong sense of community and livability. A complete consistency analysis of each of the applicable General Plan policies could be found in the Land Use Section of the Final Environmental Impact Report. The analysis concludes that the project is consistent with each of the adopted goals and policies.

Koll Center Newport Planned Community Development Plan Amendment

The subject property is currently zoned Planned Community and subject to the Koll Center Newport Planned Community (PC-15) regulations. The site is designed Industrial Site 1 which allows light industrial, office, and commercial uses; and residential is not permitted. In order to accommodate the proposed development, the applicant is requesting an amendment to PC-15 to remove the property and all relevant development standards pertaining to Industrial Site 1. The redlined PC-15 Planned Community Development Plan (Attachment No. PC 1D) illustrates the proposed deletions.

Uptown Newport Planned Community Development Plan Adoption

To be consistent with the General Plan and ICDP, the applicant submitted the draft Uptown Newport Planned Community Development Plan (PCDP) that will serve as the zoning document for the entire project. It establishes the allowable land uses, development regulations, and implementation and administrative procedures, consistent with the ICDP and in compliance with the PCDP requirements of the Newport Beach Municipal Code.

The draft PCDP consists of three (3) components: Land Use Development Standards and Procedures, Phasing Plan, and Design Guidelines. The Land Use Development Standards and Procedures document provides land use development regulations, site development standards, and planned community development plan implementation process. The use of the City's density bonus provisions for affordable housing and for the transfer of development rights from other properties are being addressed in this document. The Phasing Plan describes how the project development will be evolved in two primary phases which include demolition, on-site improvements, and off-site improvements. The Design Guidelines document identifies site planning standards, architectural guidelines, site development and infrastructure criteria, landscape design guidelines and signage allowance for the entire project.

The proposed site plan of PCDP and tentative tract map dictate the location and configuration of residential development, major network of streets and pedestrian ways, and locations of parks and open space. The site plan is also identified pedestrian connectivity between the Koll property and subject property, vehicular and pedestrian access to Birch Street via an existing access easement, and an emergency access to Von Karman Avenue via an existing access easement.

During the October 4, 2012, study session, drafts of the proposed Uptown Newport PCDP were considered, and the Planning Commission provided a number of comments pertaining to the project's approval and implementation processes, overall permitted uses, parking standards, tentative tract map, master site plan, design guidelines, and phasing plan. Staff has worked with the applicant to incorporate a number of revisions to Uptown PCDP that are intended to address the issues. The revised PCDP documents (Land Uses Development Standards & Procedures, Phasing Plan and Design Guidelines) are provided in Attachment PC 1E and the more substantive revisions summarized below.

Land Uses Development Standards & Procedures (PC Text)

- Duration of Existing Industrial Uses

Existing industrial uses on the property would continue to be operated as nonconforming uses until the termination of TowerJazz's lease, which expire in March 2017, unless TowerJazz exercises options to extend the lease until 2027. The applicant indicated that they will not extend the lease and has made this commitment within the Development Agreement.

- Permitted Land Use Regulations and Their Interface with Residential Uses

The proposed land use regulation table has been expanded to allow more neighborhood-serving retail uses, to benefit the local residents and businesses.

- Parking Provisions, On- and Off-Street

As proposed, parking for the entire development will be provided within parking structures which will be encapsulated (i.e., wrap style architecture), below grade (i.e., podium style), or screened (i.e., podium with a portion of the garage wall above grade with landscape screening). Parking for the residential and retail uses including their visitors, employees and service staff will be provided within these parking structures. Surface parking is not proposed, except for on-street parking along the residential streets. On-street visitor parking is provided and made available to adjacent to retail uses and residents throughout the project. The parking management plan to deviate from the parking standards has been removed from the PCDP.

- Preliminary Site Plan

The preliminary site plan has been revised as follow:

- Widening of the vehicular travel lanes at the primary entry Fairchild intersection to provide additional lane width. Two inbound travel lanes are provided (12 feet-wide and 16 feet wide), and two outbound lanes are provided (12-feet wide and 14 feet wide);
- Widening of "E" Street from 24 feet to 32 feet with a cul-de-sac at the end with parking on one side. "E" Street will provide access to the Phase 1 neighborhood park and residential parcels adjacent to the streets as well as provide emergency access to Von Karman Avenue;
- F" Street has been shifted to the west to align with the a traffic roundabout circle on "B" Street resulting the elimination of "G" Street, and to allow for future vehicular and/or pedestrian connection between the Uptown Newport project and the Koll Center Newport as envisioned by the City of Newport Beach General Plan;
- A traffic roundabout has been provided on "B" Street to provide an alternative for residents and guests to exit the project and go east on Jamboree Road at the

Fairchild intersection, additional traffic calming along “B” Street and enhance vehicular circulation within the project; and

- D” Street has been shifted southerly to provide functional-sized parcels;

A Phase 1 Site Plan is also provided to depict the overall development within Phase 1.

The overall location and size of the neighborhood parks will not be altered. Each of the parks will be a minimum of one-acre in size, having public streets on at least two sides and be connected with adjacent residential parcels by pedestrian walkways, paseos, and residential streets, and a minimum dimension no less than 150 feet in order to promote useable and cohesive open space. The proposed design features of the parks are consistent with General Plan Land Use Policy LU6.15.13 and LU6.15.14. Furthermore, the parks will be deeded to the City upon completion of each phase. These parks along with common landscape areas such as pedestrian paseos and greenbelts and Jamboree Road parkway landscaping will be improved and maintained by the applicant under the master association maintenance agreement.

- Master Site Development Plan Approval Process

The PCDP has been revised to clarify the process for approval of subsequent implementing projects. This includes a master site development plan that will require review and approval by the Planning Commission. The purpose of the master site development plan is to ensure that as project is developed in phases consistently is maintained with the Uptown Newport PCDP, Development Agreement, environmental mitigation measures, and applicable City codes and standards. In addition this process will ensure that the infrastructure improvements are constructed and completed in a complete and cohesive manner.

Master Site Development Plans for subsequent phases of this project will include the following preliminary plans:

1. Grading
2. Street improvements
3. Landscape and plant palette
4. Public parks and paseos
5. Master wall/fence
6. Master lighting (streets & common areas)
7. Signage

Subsequent to the adoption of the master site development plans by the Planning Commission, individual site development review applications will be submitted for review and approval by the Community Development Director. This process is required prior to the issuance of a grading or building permit for the following:

1. New buildings
2. Neighborhood parks and paseos
3. On-site recreational amenities

Design Guidelines

The Design Guidelines have been revised to provide additional clarity and details to articulate the quality intent of the proposed architecture and landscape standards, and to provide the regulatory framework and standards for implementing projects through the site development review process set forth in the PCDP.

In addition to the above revisions, the applicant has submitted a list of responses to Commissioner Tucker's study session list of issues dated October 4, 2012. The applicant's response list is attached as Attachment PC 3.

Phasing Plan

The Phasing Plan has been revised to provide a minimum and maximum range for Phases 1 and 2; reaffirm the role of the master developer in completing the master site improvements within each phase; and provide additional details in response to questions and comments raised during the study session.

Tentative Tract Map

The proposed Tentative Tract Map No. 17438 (Attachment PC 1H) is the implementing subdivision map for the project. The Tentative Tract Map describes the subdivision of the project site into lots for public dedication, conveyance for financing purposes, and conveyance to future builders. The Tentative Tract Map also describes the plan for grading, roadways, infrastructure, and other public improvements to serve the subdivision.

Approval of the proposed Tentative Tract Map in conjunction with the PCDP would permit rough and precise grading, site remediation, construction of roadways, drainage and water quality improvements, backbone infrastructure, and utilities, including domestic water and sewer facilities. Future development of buildings may involve subsequent tentative and final maps.

Section 19.12.070 of the Municipal Code establishes findings that must be made in order to approve a tentative map. These findings and facts in support of findings are provided in Attachment PC 1F.

Staff has recommended an extensive list of conditions of approval (Attachment PC 1G) to ensure consistency with other components of the proposed project and compliance with City policies and regulations.

Traffic Phasing Ordinance

Chapter 15.40 (Traffic Phasing Ordinance, or TPO) of the Municipal Code requires a traffic study to be prepared and findings be made prior to issuance of building permits if a proposed project will generate in excess of 300 average daily trips (ADT). The TPO traffic study differs from the cumulative traffic analyses in the EIR in that, typically, the TPO's focus is on conditions one year after project occupancy, or five years after project approval for larger projects that are not expected to be completed within five years. The entire Uptown Newport project is not anticipated to be completed within five years of approval. Therefore, the TPO analysis addresses only Phase 1 of the project since it is planned to be completed within the next five years (Attachment PC 1J). A separate TPO analysis for Phase 2 of the project will be required to prepare prior to the issuance of building permits within Phase 2.

Phase 1 will generate an additional 5,012 daily trips, 317 during the AM peak hour and 443 during the PM peak hour. At the project's build-out (Phase 2), the Project is anticipated to generate 8,286 daily trips, 542 during the AM peak hour and 727 during the PM peak hour. Traffic patterns to and from the site due to the change in land use are accounted for (e.g. residential use and office/industrial have near reverse AM and PM trip generation). As a result, while the proposed project increases in daily trips, there is a reduction of trips on some intersection movements and an increase on others in each of the morning and evening peak hours.

The analysis concludes that there is no significant impact to the studied intersections. Furthermore, the TPO requires findings that, based on the weight of the evidence in the administrative record, including the traffic study, the proposed project complies with the TPO. These findings and facts in support of findings are provided in Attachment PC 1I.

Affordable Housing Implementation Plan

The Municipal Code requires the preparation of an Affordable Housing Implementation Plan (AHIP) pursuant to Chapter 19.54 Inclusionary Housing and Chapter 20.32 Density Bonus. The purpose of the plan is to prescribe the project's obligation to provide affordable housing. The applicant has requested a 35 percent bonus density and the City is obligated to allow it provided the project includes the construction of certain amounts of affordable housing depending upon the income level targeted.

	Units
Maximum Units allowed by the General Plan	922
35% Bonus Density	322
Affordable Housing Obligation:	
• Minimum Very Low Income (11%), or	102
• Minimum Low Income (20%), or	185
• Minimum Moderate Income (40%)	369

Low and very-low income units can be available to rent while moderate-income units are restricted to ownership. If a combination of income levels is constructed, the AHIP specifies the following equivalency factors:

- A very-low income unit shall be deemed to be the equivalent of 3.6 moderate-income units or 1.8 low-income units.
- A low-income unit shall be the equivalent of 2 moderate-income units.
- For example, if 30 very-low income units are constructed, either 131 low-income or 261 moderate-income units would be required to complete the affordability requirements. If 89 low-income units are constructed, 191 moderate-income units are required.

Affordable rentals will be restricted for a minimum of 30 years and moderate-income ownership opportunities will be made affordable to the initial buyer. When those units sells in the future, the City will be entitled to the initial subsidy minus some accrued equity pursuant to an equity-sharing formula prescribed in the Municipal Code and State Density Bonus Law.

The AHIP provides for the following phasing of construction of affordable housing:

- One-third of the total affordable units must be either under construction or completed prior to occupancy of 50 percent of the market-rate units.
- The next one-third of the total affordable units must be must be either under construction or completed prior to occupancy of 75 percent of the market-rate units.
- The remaining one-third of the affordable units be under construction or completed prior to occupancy of the remaining market rate units.
- Additionally, since the project will be constructed in two phases, each phase will be required to provide the pro-rata share of affordable housing based upon the final number of houses constructed in each phase.

The proposed construction of affordable housing in accordance with the draft AHIP (Attachment PC 1K) is consistent with Chapter 19.54 (Inclusionary Housing) and Chapter 20.32 (Density Bonus).

Development Agreement

General Plan Land Use Policy LU6.15.12 and ICDP require a development agreement for all projects that include infill residential units in the Airport Area.

The proposed development agreement (Attachment PC 1L) between the applicant and the City describes the development rights and public benefits to be provided by the applicant. The agreement would vest the proposed project's development approvals to

allow build-out of the project site under the development standards and requirements in place at the time of project approval. The proposed term of the agreement is 15 years, with two 5-year extensions.

Airport Land Use Commission Consistency Determination

California Public Utilities Code Section 21676(b) and John Wayne Airport Environs Land Use Plan (AELUP) Section 4.11 require the City to refer the Uptown Newport project to the Airport Land Use Commission (ALUC) for consistency determination with the AELUP due to the proposed zoning amendments (planned community development amendment and adoption).

On October 18, 2012, the ALUC found the proposed project to be inconsistent with the AELUP on a 4-1-1 vote. During the meeting, ALUC expressed their concerns with the proximity of the residential towers to the airport and based their decision on Section 2.1.3 of the John Wayne AELUP, which states “the ALUC may utilize criteria for protection aircraft traffic patterns at individual airports which may differ from those contained in FAR Part 77, should evidence of health, welfare or air safety surface sufficient to justify such an action.”

As a final review authority on legislative acts, the City Council may, after a public hearing, choose to overrule the ALUC’s decision by following the procedure established in Public Utilities Code Sections 21676 and 2176.5. This two-step procedure requires the City Council to conduct two separate noticed public meetings. The initial step is to notify ALUC and State Division of Aeronautics of the City’s intention to override the ALUC’s determination by adopting a resolution of intent at least 45 days in advance of the overruling; and the second meeting is to make specific findings that the proposed overruling is consistent with the purposes stated in Public Utilities Code Section 21670.

The hearing date for the City Council consideration on the resolution of intent has been scheduled for December 11, 2012. The Council’s adoption of the notification resolution does not constitute the project’s approval nor does it predispose the City’s future action on the project. In the event that the Planning Commission does not conclude their deliberation and project recommendations to the City Council, this matter will be continued on the City Council calendar at a future date.

Alternatives

Staff believes the findings for approval can be made and the facts in support of the required findings are presented in the draft resolution (Attachment No. PC1). The following alternatives are available to the Planning Commission should the facts are not in evidence of support for the project application:

1. The Planning Commission may suggest specific changes to the master site plan, tentative tract map, and/or the draft PCDP that are necessary to alleviate any

concerns. If any additional requested changes are substantial, the item could be continued to a future meeting. Should the Planning Commission choose to do so, staff will return with a revised resolution incorporating new findings and/or conditions.

2. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission may deny the application and provide facts in support of denial to be included in the attached draft resolution for denial (Attachment No. PC 2).

Public Notice

Public notice of this meeting has been provided in the following manner: 1) mailing to property owners within 300 feet of the property and to project interest groups; 2) posting of the site; and 3) noticing through the City's Select Alert System. The mailing, posting of the site, and notification occurred at a minimum 10 days in advance of the meeting, consistent with the provisions of the Municipal Code. The environmental assessment process has also been noticed consistent with the California Environmental Quality Act. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Rosalinh Ung
Associate Planner

Submitted by:


Kimberly Brandt, AICP
Director

ATTACHMENTS

- PC 1 Draft Resolution of Approval containing the following exhibits
- A. Legal Description
 - B. Final Environmental Impact Report
 - C. Findings of Facts and Statement of Overriding Considerations
 - D. Revised Planned Community Development Plan #15 (Koll Center Newport)
 - E. Draft Uptown Newport Planned Community Development Plan dated November 29, 2012
 - F. Required Findings for TTM No. 17438
 - G. TTM No. 17438 Conditions of Approval
 - H. Tentative Tract Map No. 17438
 - I. Required Findings for Traffic Study No. TS2012-005
 - J. Traffic Study No. TS2012-005
 - K. Uptown Newport Affordable Housing Implementation Plan

- L. Draft Development Agreement
- PC 2 Draft Resolution of Denial
- PC 3 List of Responses to Commissioner Tucker
- PC 4 Site Plan (Phase 1 Master Site Plan and Master Site Plan)
- PC 5 Correspondence

Attachment No. PC 1

Draft Resolution of Approval

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH RECOMMENDING CERTIFICATION OF FINAL ENVIRONMENTAL IMPACT REPORT NO. ER2012-001, ADOPTION OF STATEMENT OF OVERRIDING CONSIDERATIONS, AND APPROVAL OF PLANNED COMMUNITY DEVELOPMENT PLAN AMENDMENT NO. PD2011-003, PLANNED COMMUNITY DEVELOPMENT PLAN ADOPTION NO. PC2012-001, TENTATIVE TRACT MAP NO. NT2012-002, AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2012-001, TRAFFIC STUDY NO. TS2012-005, AND DEVELOPMENT AGREEMENT NO. DA2012-003 FOR THE 25.05 ACRE PLANNED COMMUNITY KNOWN AS UPTOWN NEWPORT LOCATED AT 4311-4321 JAMBOREE ROAD (PA2011-134)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Uptown Newport LP (“Uptown Newport” or “Applicant”) with respect to a 25.05-acre property generally located on the north side of Jamboree Road between Birch Street and the intersection of Von Karman Avenue and MacArthur Boulevard, legally described on Exhibit A, which is attached hereto and incorporated herein by reference, (the “Property”) requesting approval for the development of up to 1,244 residential dwelling units, 11,500 square feet of retail commercial uses and 2.05 acres of parklands (the “Project”). The following approvals are requested or required in order to implement the project as proposed:
 - a. Planned Community Development Plan Amendment No. PD2011-003: An amendment to Planned Community Development Plan #15 (Koll Center Planned Community) to remove the subject property from the Koll Center Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.
 - b. Planned Community Development Plan Adoption No. PC2012-001: A Planned Community Development Plan (PCDP) adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as the zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space to be built in two separate phases on a 25.05-acre site, pursuant to Chapter 20.56 of the Municipal Code. The PCDP has three (3) components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.
 - c. Tentative Tract Map No. NT2012-002: A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.
 - d. Traffic Study No. TS2012-005: A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.

- e. Affordable Housing Implementation Plan No. AH2012-001: A program specifying how the proposed project would meet the City's affordable housing requirements, pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.
 - f. Development Agreement No. DA2012-003: A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a of the Municipal Code and General Plan Land Use Policy LU6.15.12.
2. The Property has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2), and the Property is located within the Airport Business Area, for which the Airport Business Area Integrated Conceptual Development Plan ("ICDP") has been adopted. The ICDP allocates a maximum of 1,244 residential units and up to 11,500 square feet of retail to be developed on the Property.
 3. The Property is currently located within the City of Newport Beach ("City") Koll Center Newport Planned Community and is designated as Industrial Site 1.
 4. On October 4, 2012, the Planning Commission held a study session for the project in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, on the DEIR and Project.
 5. A public hearing was held on December 6, 2012, in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California. A notice of the time, place and purpose of the aforesaid meeting was provided in accordance with CEQA and the Newport Beach Municipal Code ("NBMC"). The DEIR, draft Responses to Comments, draft Mitigation, Monitoring and Reporting Program, staff report, and evidence, both written and oral, were presented to and considered by the Planning Commission at the scheduled hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. Pursuant to the California Environmental Quality Act, Public Resources Code Section 21000, et seq. ("CEQA"), the CEQA Guidelines (14 Cal. Code of Regulations, Sections 15000 et seq.), and City Council Policy K-3, the Project could have a significant effect on the environment, and thus warranted the preparation of an Environmental Impact Report ("EIR").
2. On December 8, 2011, the City, as lead agency under CEQA, prepared a Notice of Preparation ("NOP") of the EIR and mailed that NOP to public agencies, organizations and persons likely to be interested in the potential impacts of the proposed Project.
3. On December 15, 2011, the City held a public scoping meeting to present the proposed Project and to solicit input from interested individuals regarding environmental issues that should be addressed in the EIR.

4. The City thereafter caused to be prepared a Draft Environmental Impact Report (No. ER2012-001, SCH No. 2010051094) ("DEIR") in compliance with CEQA, the State CEQA Guidelines and City Council Policy K-3, which, taking into account the comments it received on the NOP, described the Project and discussed the environmental impacts resulting there from.
5. The DEIR was circulated for a 45-day comment period beginning on September 10, 2012 and ending October 24, 2012.
6. On the basis of the entire environmental review record, the proposed Project will have a less than significant impact upon the environment with the incorporation of mitigation measures, with the exception of the following significant and unavoidable impacts:
 - A. Air Quality – Short term construction-related emission for Phases 1 and 2 of the project
 - B. Land Use - A determination of inconsistency with the John Wayne Airport Environs Land Use Plan (AELUP) by the Airport Land Use Commission (ALUC)
 - C. Noise - Construction-related noise impacts for Phase 1 and Phase 2 of the project
7. The mitigation measures identified in the DEIR are feasible and reduce potential environmental impacts to a less than significant level, with the exception of those impacts identified above. The mitigation measures would be applied to the Project through the Mitigation, Monitoring and Reporting Program.
8. The record supports a Statement of Overriding Considerations pursuant to CEQA in that the Project includes public benefits that outweigh the air quality, land use and noise impacts of the proposed Project.
9. The FEIR, consisting of the DEIR, Comments and Responses to Comments, Revisions to DEIR, and Mitigation Monitoring and Report Program attached as Exhibit B, was considered by the Planning Commission in its review of the proposed Project.
10. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees and damages which may be awarded to a successful challenger.

SECTION 3. FINDINGS.

1. The proposed project is consistent with the goals and policies of the Newport Beach General Plan and Integrated Conceptual Development Plan. The Planning

Commission concurs with the conclusion of the consistency analysis of the proposed project with these goals and policies provided in the DEIR.

2. Findings of Fact and Statement of Overriding Considerations for the Final Environmental Impact Report are provided in Exhibit C.
3. Findings and facts in support of such findings for the approval of the Tentative Tract Map in accordance with NBMC Section 19.12.070 are provided in Exhibit F.
4. Findings and facts in support of such findings for the approval of the Traffic Study in accordance with NBMC Section 15.40.030 are provided in Exhibit I.
5. The proposed affordable housing implementation plan (AHIP) is consistent with the intent to implement affordable housing goals within the City pursuant to Government Code Section 65915-65918 ("State Bonus Density Law"), Title 19, Chapter 19.54 (Inclusionary Code), and Title 20, Chapter 20.32 (Density Bonus Code) of the Newport Beach Municipal Code. The State Density Bonus Law and the City's Density Bonus Code provide for an increase in the number of units of up to thirty-five percent (35%) above the maximum number of units allowed by the General Plan provided the Project constructs a minimum number of affordable units depending upon what income category is served. At the maximum density bonus of 35%, the Project could accommodate up to 322 additional units above the 922 base units allowed by the General Plan for a total of 1,244 total units.
6. In accordance with NBMC Section 15.45.020.A.2.a and c, a development agreement is required pursuant to General Plan Policy LU 6.15.12 as the project: 1) requires a zoning code amendment that includes the development of more than fifty (50) residential units and 2) includes new non-residential development in Statistical Area L4 (Airport Area). The Development Agreement includes all the mandatory elements for consideration and public benefits that are appropriate to support conveying the vested development rights consistent with the General Plan and Government Code Section 65867.5.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach determines that, based on all information, both oral and written, provided to date, that there has not been any new significant information, data, or changes to the Project which either result in the creation of a new significant environmental impact, or the need to adopt a new mitigation measure, or a substantial increase in the severity of an environmental impact, or in a finding that the draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.
2. The Planning Commission of the City of Newport Beach hereby recommends to the City Council certification of the Uptown Newport Final Environmental Impact Report

No. ER2012-001 (SCH No. 2010051094), attached hereto and incorporated herein by reference as Exhibit B, based upon the draft Findings of Fact and Statement of Overriding Considerations including Project benefits that outweigh the air quality, land use and noise impacts of the proposed Project attached hereto as Exhibit C and incorporated herein by reference.

3. The Planning Commission of the City of Newport Beach hereby recommends to the City Council approval and adoption of:
- a. Planned Community Development Plan Amendment No. PD2011-003, attached hereto as Exhibit D and incorporated herein by reference;
 - b. Planned Community Development Plan Adoption No. PC2012-001, consisting of three documents: 1) Land Uses, Development Standards & Procedures, 2) Phasing Plan, and 3) Design Guidelines, attached hereto as Exhibit E and incorporated herein by reference;
 - c. Tentative Tract Map No. NT2012-002, attached hereto as Exhibit H and incorporated herein by reference, and subject to the conditions set forth in Exhibit G, which is attached hereto and incorporated herein by reference;
 - d. Traffic Study No. TS2012-005, attached hereto as Exhibit J and incorporated herein by reference.
 - e. Affordable Housing Implementation Plan No. AH2012-001, attached hereto as Exhibit K and incorporated herein by reference; and
 - f. Development Agreement No. DA2012-003, attached hereto as Exhibit L and incorporated herein by reference;

PASSED, APPROVED AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

EXHIBIT A
LEGAL DESCRIPTION

Being a subdivision of Lots 1 and 2 of Tract No. 7953, in the City of Newport Beach, County of Orange, State of California, as shown on a map recorded in Book 310, Pages 7 to 11 inclusive, of Miscellaneous Maps, recorded of said County.

EXHIBIT B
UPTOWN NEWPORT

FINAL ENVIRONMENTAL IMPACT REPORT ER2012-001
(SCH No. 2010051094)

Consists of:

1. Volume I: Draft Environmental Impact Report (EIR)
 - a. and Appendix A dated September 2012
2. Volume II: Appendices B through H dated September 2012
3. Volume III: Appendices I through O dated September 2012
4. Final EIR dated November 29, 2012
 - a. Responses to Comments
 - b. Revisions to the Draft EIR
5. Mitigation Monitoring and Reporting Program dated November 29, 2012

The Final Environmental Impact Report is available for review at the Planning Division of Community Development Department or at <http://newportbeachca.gov/index.aspx?page=2029>

EXHIBIT C**A. FINDINGS AND FACTS IN SUPPORT OF FINDINGS FOR THE UPTOWN NEWPORT PROJECT FINAL ENVIRONMENTAL IMPACT REPORT STATE CLEARINGHOUSE NO. 2010051094****1. INTRODUCTION**

The California Environmental Quality Act, Public Resources Code Section 21081, and the State CEQA Guidelines, 14 California Code of Regulations, Section 15091 (collectively, CEQA) require that a public agency consider the environmental impacts of a project before a project is approved and make specific findings. The State CEQA Guidelines Section 15091 provides:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - 1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the EIR.
 - 2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can or should be adopted by such other agency.
 - 3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.
- (b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.
- (c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subsection (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.
- (d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

- (e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.
- (f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

State CEQA Guidelines Section 15093 further provides:

- (a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- (b) Where the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This statement of overriding considerations shall be supported by substantial evidence in the record.
- (c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

Having received, reviewed, and considered the Draft Environmental Impact Report (Draft EIR) and the Final Environmental Impact Report (Final EIR) for the Uptown Newport project, SCH No. 2010051094 (collectively, the EIR), as well as all other information in the record of proceedings on this matter, the following Findings and Facts in Support of Findings (Findings) and Statement of Overriding Considerations (SOC) are hereby adopted by the City of Newport Beach (City) in its capacity as the CEQA Lead Agency.

These Findings set forth the environmental basis for the discretionary actions to be undertaken by the City for the development of the project. These actions include the approval of the following for Uptown Newport:

- Environmental Impact Report No. ER2012-001 (SCH#2010051094).
- Planned Community Development Plan Amendment No. PD2011-003
- Planned Community Development Plan Adoption No. PC2012-001. The PCDP has three components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.
- Tentative Tract Map No. NT2012-002. A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.

- Traffic Study No. TS2012-005. A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.
- Affordable Housing Implementation Plan No. AH2012-001.
- Development Agreement No. DA2012-003.

These actions are collectively referred to herein as the project.

A. Document Format

These Findings have been organized into the following sections:

- (1) Section 1 provides an introduction to these Findings.
- (2) Section 2 provides a summary of the project, overview of the discretionary actions required for approval of the project, and a statement of the project's objectives.
- (3) Section 3 provides a summary of previous environmental reviews related to the project area that took place prior to the environmental review done specifically for the project, and a summary of public participation in the environmental review for the project.
- (4) Section 4 sets forth findings regarding the environmental impacts that were determined to be—as a result of the Initial Study, Notice of Preparation (NOP), and consideration of comments received during the NOP comment period—either not relevant to the project or clearly not at levels that were deemed significant for consideration at the project-specific level.
- (5) Section 5 sets forth findings regarding significant or potentially significant environmental impacts identified in the EIR that the City has determined are either not significant or can feasibly be mitigated to a less than significant level through the imposition of Project Design Features, standard conditions, and/or mitigation measures. In order to ensure compliance and implementation, all of these measures will be included in the Mitigation Monitoring and Reporting Program (MMRP) for the project and adopted as conditions of the project by the Lead Agency. Where potentially significant impacts can be reduced to less than significant levels through adherence to Project Design Features and standard conditions, these findings specify how those impacts were reduced to an acceptable level. Section 5 also includes findings regarding those significant or potentially significant environmental impacts identified in the EIR that will or may result from the project and which the City has determined cannot feasibly be mitigated to a less than significant level.
- (6) Section 6 sets forth findings regarding alternatives to the proposed project.

B. Custodian and Location of Records

The documents and other materials that constitute the administrative record for the City's actions related to the project are at the City of Newport Beach Community Development Department, 3300 Newport Boulevard, Newport Beach, California 92658. The City of Newport Beach is the custodian of the Administrative Record for the project.

2. PROJECT SUMMARY

A. Project Location

The 25.05-acre project site is within the Airport Area of the City of Newport Beach, County of Orange, California. It is situated approximately 0.6 mile southeast of John Wayne Airport and occupies Assessor's Parcel Nos. 445-131-02 and 445-131-03. It is on the west side of Jamboree Road between Birch Street and the intersection of Von Karman Avenue and MacArthur Boulevard. The two existing onsite industrial buildings are at 4311 and 4321 Jamboree Road.

Regional access to the site is from State Route 73 (SR-73) via Jamboree Road. Vehicular access to the site is from Jamboree Road, Birch Street, and Von Karman Avenue. MacArthur Boulevard and Von Karman Avenue pass west of the site, and Birch Street passes to the north.

B. Project Description

Proposed Site Plan and Land Use

At buildout, Uptown Newport is intended to be a multifamily residential community with neighborhood-serving retail uses. The project site is within the Airport Business Area, for which the Airport Business Area Integrated Conceptual Development Plan (ICDP) has been implemented (General Plan Land Use Policy LU 6.15.11). Consistent with the ICDP and allocated residential units and commercial square footage, the site plan includes up to 1,244 residential units, 11,500 square feet of retail, and 2 acres of planned park area. The land use summary by phase is summarized in Table 1, *Uptown Newport Land Use Summary*.

Table 1 Uptown Newport Land Use Summary			
	Phase 1	Phase 2	Total
Number of Units	680	564	1,244
Developable Area (ac)	8.65	10.02	18.67
Park Area (ac)	1.03	1.02	2.05
Retail (sf)	11,500	0	11,500
Right of Way Area (ac)	2.61	1.72	4.33
Total Area (ac)	12.29	12.76	25.05

Housing

A variety of housing developments are anticipated. Residential product types would be for sale and rent with a mix of apartments, townhouses, and condominiums. Residential buildings may include low-rise row-houses and 4- and 5-story apartments or condominiums featuring a range of floor plan sizes. Mid-rise to high-rise buildings are also envisioned. High rise buildings would not exceed 150 feet in height. Live-work units would also be a permitted use. Of the total 1,244 residential units, up to 184 units would be set aside for affordable housing.

Commercial

A retail component would provide neighborhood-serving retail and services. Permitted uses would include but not be limited to restaurants and retail uses such as bakeries, clothing/boutique shops, jewelry, and convenience stores. Business, medical, dental, and professional offices would be permitted uses as well as personal service uses such as dry cleaners, hair salons, optometry, and postal services. The permitted and conditional uses for Uptown Newport are detailed in the Land Uses, Development Standards and Procedures section of the Planned Community Development Plan (PC Development Plan).

Parks

The two 1-acre minimum park areas would be principal focal points for the development. The parks would be privately maintained but publicly accessible. In addition to the neighborhood parks, public open space areas, private open space area, and ancillary amenities would be provided to serve residents and visitors.

Circulation

The development would be accessed from two intersections at Jamboree Road and one access from Birch Street. An emergency access would be provided to Von Karman Avenue via Koll Center Newport office park through an existing access drive. An internal pedestrian and open space network is envisioned to connect plazas, courtyards, parks, paseos, and retail uses. Minimum five-foot-wide sidewalks would be provided on both sides of internal streets.

Operations

At buildout, Uptown Newport is projected to house approximately 2,724 residents and employ approximately 26 people in the retail component of the project. The hours of the retail and office uses would be typical of neighborhood-serving uses and would be governed by the PC Development Plan. As envisioned, the project could also host a variety of special events and temporary uses throughout the year, including street fairs, farmers' markets, parades, trade shows, car shows, pageants, community concerts, outdoor displays, and recreation/entertainment events, subject to an applicable Special Event Permit issued by the City.

General Phasing

The project would be developed in two primary phases. The first phase of the project is projected to commence in 2013 and be completed by 2018. Timing for Phase 2 would be contingent on the existing lease of the TowerJazz building, which is currently set to expire in March 2017, but could be extended to as late as March 2027. The analysis in the Draft EIR conservatively assumed that Phase 2 could commence as early as spring 2017 with buildout through 2021.

The operation of the TowerJazz facility, an existing semiconductor manufacturing facility, is expected to continue as an interim use after the development of Phase 1. The Draft EIR therefore addressed the potential impacts of the Phase 1 development (an interim condition with 680 residential units and 11,500 square feet of commercial uses) operating adjacent to the TowerJazz facility. Similarly, an SCE substation at the northwest corner of Fairchild Road and Jamboree Road would remain after Phase 1 development and be eliminated during Phase 2 development.

C. Discretionary Actions

Implementation of the portion of the project within the City of Newport Beach will require several actions by the City, including

- **Environmental Impact Report No. ER2012-001 (SCH#2010051094).** An Environmental Impact Report (EIR) to evaluate the environmental impacts resulting from the proposed project, in accordance with the California Environmental Quality Act of 1970 (CEQA), as amended (Public Resources Code Sections 21000 et seq.), and the State CEQA Guidelines for Implementation of CEQA (California Code of Regulations, Title 14, Sections 15000 et seq.).
- **Planned Community Development Plan Amendment No. PD2011-003.** An amendment to Planned Community Development Plan #15 (Koll Center Newport Planned Community) to remove the subject property from the Koll Center Newport Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.
- **Planned Community Development Plan Adoption No. PC2012-001.** A Planned Community Development Plan (PCDP) adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as the zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space, pursuant to Chapter 20.56 of the Municipal Code. The PCDP has three (3) components: 1) Land Uses, Development Standards & Procedures; 2) Phasing Plan; and 3) Design Guidelines.
- **Tentative Tract Map No. NT2012-002.** A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.

- **Traffic Study No. TS2012-005.** A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.
- **Affordable Housing Implementation Plan No. AH2012-001.** A program specifying how the proposed project would meet the City's affordable housing requirements, pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.
- **Development Agreement No. DA2012-003.** A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a & c of the Municipal Code and General Plan Land Use Policy LU6.15.12.

The Final EIR would also provide environmental information to responsible agencies, trustee agencies, and other public agencies that may be required to grant approvals and permits or coordinate with the City of Newport Beach as a part of project implementation. These agencies include, but are not limited to:

- **Airport Land Use Commission of Orange County (ALUC).** The project is within the boundaries of the Airport Environs Land Use Plan (AELUP). The overseeing agency, ALUC, must review the proposed project and determine its consistency with the AELUP. The ALUC considered the project at its October 18, 2012, public hearing and voted to find the project inconsistent with the Commission's AELUP. Approval of the project would require the Newport Beach City Council to override this determination with a two-thirds vote.
- **Irvine Ranch Water District (IRWD).** Approval of the Water Supply Assessment (WSA) for the proposed project is needed from IRWD at the time of project approval by the City.
- **Regional Water Quality Control Board (RWQCB).** The Santa Ana RWQCB would approve the project's compliance with the National Pollution Discharge Elimination System (NPDES) Statewide General Construction Activity permit (2009-0009-DWQ) and Municipal Separate Stormwater Sewer System (MS4) permit. In addition, the RWQCB is the agency with lead oversight of the project site's remediation and is responsible for clearing the site for residential development.
- **South Coast Air Quality Management District (SCAQMD).** The project would require permitting by SCAQMD for Rules 201 (permit to construct), 402 (nuisance odors), 403 (fugitive dust), 1113 (architectural coatings), 1403 (asbestos emissions from demolition), and 1186 (street sweeping).

D. Statement of Project Objectives

The statement of objectives sought by the project and set forth in the Final EIR is provided as follows:

1. Implement the goals and policies that the Newport Beach General Plan has established for the Airport Area and the Integrated Conceptual Plan Development Plan.
2. Develop a mixed-use residential village characterized by a diversity of building and housing types that is consistent with the prescribed minimum density of 30 dwelling units and maximum of 50 dwelling units per net acre average over the 25.05 acre project site.
3. Develop up to 11,500 square feet of retail commercial uses to serve local residents, businesses and visitors.
4. Provide housing in close proximity to jobs and supporting services, with pedestrian-oriented amenities that facilitate walking and enhance livability.
5. Integrate neighborhood parks inter-connected by pedestrian walkways to encourage a sense of community.
6. Develop an attractive, viable project that yields a reasonable return on investment.
7. Provides for the phased transition from existing industrial and office uses to a mixed-use residential village.
8. Provide beneficial site and improvements including implementing a Water Quality Management Plan.

3. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

The Final EIR includes the Draft Environmental Impact Report (Draft EIR) dated September 10, 2012, written comments on the Draft EIR that were received during the 45-day public review period, and written responses to those comments and clarifications/changes to the EIR. In conformance with CEQA and the State CEQA Guidelines, the City conducted an extensive environmental review of the Uptown Newport project:

- Completion of the Notice of Preparation (NOP), which was released for a 30-day public review period from December 8, 2011, through January 9, 2012. The NOP was sent to all responsible agencies, trustee agencies, and the Office of Planning Research and posted at the Orange County Clerk-Recorder's office and on the City's website on December 8, 2011.
- During the NOP review period, a Scoping Meeting was held to solicit additional suggestions on the content of the Uptown Newport EIR. Attendees were provided an opportunity to identify verbally or in writing the issues they felt should be addressed in the EIR. The scoping meeting was held on Thursday, December 15, 2011, at Newport Beach City Hall at 3300 Newport Boulevard, Newport Beach, CA 92658. The notice of the public scoping meeting was included in the NOP.
- Preparation of a Draft EIR by the City that was made available for a 45-day public review period (September 10, 2012, to October 24, 2012). The Draft EIR consisted of

three volumes: Volume I contains the text of the Draft EIR and analysis of the Uptown Newport project and Appendix A, Initial Study and Notice of Preparation, and NOP Comment Letters. Volumes II and III contain the technical appendices. The Notice of Availability (NOA) for the Draft EIR was published in the September 9, 2012, edition of the *Daily Pilot*, a newspaper of general circulation. The NOA was sent to all interested persons, agencies and organizations. The Notice of Completion (NOC) was sent to the State Clearinghouse in Sacramento for distribution to public agencies. The NOA was posted at the Orange County Clerk-Recorder's office on September 10, 2012. Copies of the Draft EIR were made available for public review at the City of Newport Beach Community Development Department, Newport Beach Central Branch Library, Newport Beach Balboa Branch Library, Newport Beach Mariners Branch Library, and Newport Beach Corona del Mar Branch Library. The Draft EIR was available for download via the City's website: <http://www.newportbeachca.gov>.

- Preparation of a Final EIR, including the comments and Responses to Comments on the Draft EIR. The Final EIR contains: comments on the Draft EIR, responses to those comments, clarifications/revisions to the Draft EIR, and appended documents. The preliminary Response to Comments were provided to City Planning Commissioners on November 21 and November 30, 2012, and posted on the City's website. The Final EIR was released on November 30, 2012. In compliance with Section 15088(b) of Title 14 of the California Code of Regulations (State CEQA Guidelines), the City has met its obligation to provide written Responses to Comments to public agencies at least 10 days prior to certifying an EIR.
- The Environmental Quality Affairs Committee (EQAC) scheduled a meeting on October 1, 2012, to review and comment on the Draft EIR. The meeting was not held due to the lack of quorum in attendance. EQAC members were encouraged to submit their comments individually on the Draft EIR.
- A Planning Commission Study Session was held for the proposed project and Draft EIR on October 4, 2012.
- A Planning Commission public hearing was held on December 6, 2012. A notice for this meeting was published in the *Daily Pilot*, mailed to all property owners within 300 feet of the project site and to all interested persons, agencies and organizations, and posted at the project site a minimum of 10 days in advance of this hearing, consistent with the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed project consists of the following documents and other evidence, at a minimum:

- All information submitted to the City by the Applicant and its representatives relating to the project and/or the Final EIR, including but not limited to the Uptown Newport Specific Plan, Tentative Tract Map, AHIP, Development Agreement, and the Traffic Study pursuant to the Traffic Phasing Ordinance;
- NOP and all other public notices issued by the City in conjunction with the proposed project;
- The Scoping Meeting notes held during the 30-day NOP period;

- The Final EIR, including the Draft EIR and all appendices, the Responses to Comments document, and all supporting materials referenced therein. All documents, studies, EIRs, or other materials incorporated by reference in the Draft EIR and Final EIR. The reports and technical memoranda included or referenced in the Response to Comments of the Final EIR;
- All written comments submitted by agencies and members of the public and testimony provided at the October 4, 2012, Planning Commission Study Session during the 45-day public review comment period on the Draft EIR;
- All responses to written comments submitted by agencies and members of the public provided at the December 6, 2012, Planning Commission Public Hearing;
- All testimony provided by agencies and members of the public at the Planning Commission public hearing on December 6, 2012;
- All final City Staff Reports relating to the Draft EIR, Final EIR, and the project;
- All other public reports, documents, studies, memoranda, maps, or other planning documents relating to the project, the Draft EIR, and the Final EIR prepared by the City, consultants to the City, or Responsible or Trustee Agencies.
- The Mitigation Monitoring and Reporting Program (MMRP) adopted by the City for the project; the Ordinances and Resolutions adopted by the City in connection with the proposed project; and all documents incorporated by reference therein;
- These Findings of Fact and Overriding Considerations adopted by the City for the project, any documents expressly cited in these Findings of Fact;
- Any other relevant materials required to be in the record of proceedings by Public Resources Code Section 21167.6(e).

The documents and other material that constitute the record of proceedings on which these findings are based are located at the City of Newport Beach Community Development Department. The custodian for these documents is the City of Newport Beach. This information is provided in compliance with Public Resources Code Section 21081.6(a)(2) and 14 California Code Regulations Section 15091(e).

4. ENVIRONMENTAL ISSUES THAT WERE DETERMINED NOT TO BE POTENTIALLY AFFECTED BY THE PROPOSED PROJECT

Impacts Determined Less than Significant in the Initial Study

As a result of the Notice of Preparation circulated by the City on December 8, 2011, in connection with preparation of the EIR, the City determined, based upon the threshold criteria for significance, that the project would have no impact or a less than significant impact on the following potential environmental issues, and therefore, determined that these potential environmental issues would not be addressed in the Draft EIR. Based upon the environmental analysis presented in the EIR, and the comments received by the public on the Draft EIR, no substantial evidence was submitted to or identified by the City which indicated that the project would have an impact on the following environmental areas:

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- (a) *Aesthetics.* The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcropping, and historic buildings within a scenic highway.
 - (b) *Agriculture and Forest Resources:* The project site does not contain Prime Farmland, Unique Farmland, or Farmland of Statewide Importance. No portion of the project site is covered by a Williamson Act Contract. Additionally, the project site does not include forest resources, including timberlands, and is not zoned for agriculture.
 - (c) *Biological Resources.* The project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community or have an effect on federally protected wetlands. It would not conflict with any local policies or ordinances protecting biological resources, or conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.
 - (d) *Geology and Soils.* The project would not expose people or structure to potential substantial adverse effects involving rupture of a known earthquake fault as delineated on the most recent Alquist-Priolo Earthquake Zoning Map or based on other substantial evidence of a known fault, or expose people or structures to landslides. The proposed project would not use septic systems or alternative waste water disposal systems.
 - (e) *Hazards and Hazardous Materials.* The proposed project would not emit hazardous emissions or handle hazardous materials, substances or waste within one-quarter mile of an existing or proposed school. The closest school is UCI which is greater than one-quarter mile from the project site.
 - (f) *Hydrology and Water Quality.* The proposed project site is not within a 100-year flood hazard area and would not expose people or structures to significant risk of loss, injury or death involving flooding, or failure of a levee or dam. The project site is not subject to risks related to a seiche, tsunami or mudflows.
 - (g) *Land Use and Planning.* The project would not conflict with any habitat conservation plan or natural community conservation plan.
 - (h) *Mineral Resources:* The project would not impact mineral resources of local, regional, or statewide importance.
 - (i) *Population or Housing.* There is not existing housing on the project site, and therefore, the project would not displace housing or people necessitating the construction of replacement housing.
 - (j) *Recreation.* The project includes the development of two onsite parks. The potential impacts of developing these parks are addressed in association with the development of the entire site (e.g., grading, air quality, noise, etc.) within the respective areas of the DEIR.

- (k) *Transportation/Traffic.* The project would not result in a change in air traffic patterns or result in increased traffic levels or involve design features that would result in substantial safety risks. Project access roads would meet the requirements for fire access pursuant to the 2010 California Fire Code and adequate emergency access would be provided.
- (l) *Utilities and Services Systems.* The project would comply with federal, state and local statutes and regulations related to solid waste.

Impacts Determined to be Less than Significant in the DEIR

The following impacts were evaluated in the DEIR and determined to be less than significant solely through adherence to the project design and adherence to the provisions of the Planned Community Development Plan (PCDP) and standard conditions of the City of Newport Beach.

Since the DEIR specifically evaluated the environmental impacts associated with each development phase, Phase 1 and Phase 2, the Findings are also presented by project phase. Where the Findings for Phase 1 and Phase 2 are the same, they are presented under a combined heading.

Phase 1

Based upon the environmental analysis presented in the EIR and the comments received by the public on the Draft EIR, no substantial evidence was submitted to or identified by the City indicating that Phase 1 (only) of the project would have an impact on the following environmental areas:

- (a) *Hazards and Hazardous Materials:* The existing Southern California Edison substation would not cause significant impacts related to electric and magnetic field health hazards.

Phase 2

Based upon the environmental analysis presented in the EIR and the comments received by the public on the Draft EIR, no substantial evidence was submitted to or identified by the City indicating that Phase 2 (only) of the project would have an impact on the following environmental areas:

- (b) *Hazards and Hazardous Materials:* After the removal of the TowerJazz manufacturing facility, residents would not be at risk from accidental release of chemicals stored at the TowerJazz facility.

Phases 1 and 2

Based upon the environmental analysis presented in the EIR, and the comments received by the public on the Draft EIR, no substantial evidence was submitted to or identified by the City indicating that the project (Phases 1 and 2) would have an impact on the following environmental areas:

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- (a) *Aesthetics and Visual Resources:* The project would not have a substantial adverse effect on scenic vistas, alter the visual appearance of the site, cause shade/shadow impacts, or generate additional light or glare in the project area.
 - (b) *Biological Resources:* The project would not directly impact sensitive, threatened, or endangered species or affect sensitive species listed in a local or regional plan or policy.
 - (c) *Cultural Resources:* The project would not impact historic resources or disturb any known human remains.
 - (d) *Geology and Soils:* The project would not have any significant impacts related to strong seismic ground shaking, liquefaction hazards, soil erosion, or soil subsidence.
 - (e) *Greenhouse Gas Emissions:* Phase 1 of the project would not produce GHG emissions that exceed the per capita threshold of the South Coast Air Quality Management District. At buildout (Phase 2), the project would result in a net decrease in GHG emissions. The project would not conflict with the plans adopted for the purpose of reducing GHG emissions.
 - (f) *Hydrology and Water Quality:* The project would reduce the amount of impervious surfaces on the site, reducing stormwater volumes and peak flow rates. The project would not have significant impacts related to increases in onsite pollutants during construction or after project development.
 - (g) *Land Use and Planning:* The project would not divide an established business community.
 - (h) *Noise and Vibration:* The project traffic would not cause a substantial increase in noise levels and the project site is outside the 65 dBA CNEL noise contour for John Wayne Airport.
 - (i) *Population and Housing:* The project would not result in substantial increase in population or housing.
 - (j) *Public Services:* The project would not create significant impacts related to fire protection, police protection, school, or library services.
 - (k) *Recreation:* The project would meet the City's parkland dedication requirements, and physical impacts to recreational and park spaces would not be significant.
 - (l) *Transportation and Traffic:* The project-generated traffic would not conflict with applicable City plans governing the performance of the area-wide circulation system; result in traffic impacts per the City's traffic phasing ordinance analysis requirements; cause significant impacts to the Congestion Management Plan facilities or state highways intersections; result in level of service impacts along freeway segments; or conflict with adopted policies, plan, or programs for alternative transportation. The construction-generated traffic would not detrimentally impact levels of service at intersections and roadways in the service area.
 - (m) *Utilities and Service Systems:* Project-generated wastewater would not exceed the capacity of existing sewer pipelines and treatment plants; the project would be adequately served by existing water supply and delivery systems; stormwater flow would be reduced in comparison with existing conditions; the Frank R. Bowerman

landfill would have sufficient capacity to accommodate project-generated solid waste; and the project would substantially reduce onsite electricity and natural gas consumption.

5. FINDINGS REGARDING POTENTIALLY SIGNIFICANT ENVIRONMENTAL EFFECTS

The following potentially significant environmental impacts were analyzed in the EIR, and the effects of the project were considered. Because of environmental analysis of the project and the identification of project design features; compliance with existing laws, codes, and statutes; and the identification of feasible mitigation measures (together referred herein as the Mitigation Program), some potentially significant impacts have been determined by the City to be reduced to a level of less than significant, and the City has found—in accordance with CEQA Section 21081(a)(1) and State CEQA Guidelines Section 15091(a) (1)—that “Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment. This is referred to herein as “Finding 1.” Where the City has determined—pursuant to CEQA Section 21081(a)(2) and State CEQA Guidelines Section 15091(a)(2)—that “Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency,” the City’s finding is referred to herein as “Finding 2.”

Where, as a result of the environmental analysis of the project, the City has determined that either (1) even with the identification of project design features, compliance with existing laws, codes and statutes, and/or the identification of feasible mitigation measures, potentially significant impacts cannot be reduced to a level of less than significant, or (2) no feasible mitigation measures or alternatives are available to mitigate the potentially significant impact, the City has found in accordance with CEQA Section 21081(a)(3) and State CEQA Guidelines Section 15091(a)(3) that “Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.” This is referred to herein as “Finding 3.”

A. Air Quality

- (1) **Potential Impact:** Short-term construction emissions generated by the Uptown Newport project would result in NO_x emissions that exceed South Coast Air Quality Management District’s regional significance thresholds and would cumulatively contribute to the nonattainment designations of the South Coast Air Basin.

Phases 1 and 2

Finding: 3. Mitigation measures would not reduce construction emission levels to less than significant levels. The City hereby makes Finding 3 and determines that this impact is significant and unavoidable.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measure 2-1 would reduce NO_x generated by exhaust. Table 5.2-16 shows construction emissions with adherence to Mitigation Measures 2-1 and 2-2. Use of newer construction equipment would reduce construction emissions onsite. However, onsite emissions in addition to offsite emissions generated by haul trucks would generate substantial quantities of NO_x and would continue to exceed SCAQMD's regional significance threshold during site preparation (year 2014 for Phase 1 and years 2017 and 2018 for Phase 2) and when construction activities of various phases overlap (year 2017 and 2018). Off-road construction equipment and on-road haul trucks for demolition, soil export, and construction materials are the primary source of NO_x emissions. Therefore, of the eight years of construction, project-related construction activities would only exceed SCAQMD's threshold for three years because significant off-road equipment use and haul trucks are not necessary during vertical building construction. Therefore, Impact 5.2-2 would remain significant and unavoidable.

Mitigation Measures

MM 2-1 The construction contractor shall use construction equipment rated by the United States Environmental Protection Agency as having Tier 3 or higher exhaust emission limits for equipment over 50 horsepower that are onsite for more than 5 days. Tier 3 engines between 50 and 750 horsepower are available for 2006 to 2008 model years. After January 1, 2015, equipment over 50 horsepower that are onsite for more than 5 days shall be equipment meeting the Tier 4 standards, if available. A list of construction equipment by type and model year shall be maintained by the construction contractor onsite. A copy of each unit's certified Tier specification shall be provided at the time of mobilization of each applicable unit of equipment. Prior to construction, the City of Newport Beach shall ensure that all demolition and grading plans clearly show the requirement for United States Environmental Protection Agency Tier 3 or higher emissions standards for construction equipment over 50 horsepower during ground-disturbing activities. In addition, equipment shall properly service and maintain construction equipment in accordance with the manufacturer's recommendations. Construction contractors shall also ensure that all nonessential idling of construction equipment is restricted to five minutes or less in compliance with California Air Resources Board's Rule 2449.

MM 2-2 The construction contractor shall implement the following measures or provide evidence to the City of Newport Beach that implementation would not be feasible:

- If electricity is not available onsite, generators, welders, and air compressors shall use alternative fuels (i.e., electric, natural gas, propane, solar).

- Construction parking shall be configured to minimize traffic interference.
- Construction trucks shall be routed away from congested streets and sensitive receptors.
- Construction activities that affect traffic flow on the arterial system shall be scheduled to off-peak hours to the extent practicable.
- Temporary traffic controls, such as a flag person(s), shall be provided, where necessary, to maintain smooth traffic flow.
- Large shipments of construction materials and/or equipment requiring use of heavy-heavy duty tractor trailers (e.g., 53-foot truck) shall use EPA-certified SmartWay trucks.

MM 2-3 Prior to issuance of a grading permit, the construction contractor shall provide a statement to the City of Newport Beach that the construction contractor shall support and encourage ridesharing and transit incentives for the construction crew, such as carpools, shuttle vans, transit passes, or secured bicycle parking for construction workers.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to air quality that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process.

- (2) Potential Impact:** Construction activities associated with the Uptown Newport project could expose sensitive receptors to substantial pollutant concentrations of PM_{2.5}.

Phases 1 and 2 Finding: 1. Mitigation measures would reduce construction impacts to sensitive receptors. Thereby, the City makes Finding 1 and impacts are mitigated to less than significant levels.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measures 2-4 through 2-5 would reduce particulate matter concentration generated from exhaust and fugitive dust during construction activities. Table 5.2-17 shows project-related construction emissions compared to SCAQMD's LSTs with adherence to Mitigation Measures 2-1 through 2-6. Mitigation Measure 2-1 would require use of newer construction equipment, and Mitigation Measure 2-4 would require additional fugitive dust control measures to be implemented during ground-disturbing activities. Mitigation Measure 2-5 requires diesel particulate filters installed on equipment used for site improvements during Phase 2 or prohibits overlap of site improvements associated with Phase 2 during construction of Phase 1. As shown in

the table, Mitigation Measures 2-1 through 2-6 would reduce localized construction emissions below the localized significance thresholds. Therefore, Impact 5.2-4 would be less than significant.

Mitigation Measures

MM 2-4 The construction contractor shall prepare a dust control plan and implement the following measures during ground-disturbing activities for fugitive dust control in addition to South Coast Air Quality Management District Rule 403 to reduce particulate matter emissions. The City of Newport Beach shall verify compliance that these measures have been implemented during normal construction site inspections.

- During all grading activities, the construction contractor shall reestablish ground cover on the construction site through seeding and watering.
- During all construction activities, the construction contractor shall sweep streets with Rule 1186–compliant, PM10-efficient vacuum units on a daily basis if silt is carried over to adjacent public thoroughfares or occurs as a result of hauling.
- During all construction activities, the construction contractor shall maintain a minimum 24-inch freeboard on trucks hauling dirt, sand, soil, or other loose materials, and tarp materials with a fabric cover or other cover that achieves the same amount of protection.
- During all construction activities, the construction contractor shall water exposed ground surfaces and disturbed areas a minimum of every three hours on the construction site and a minimum of three times per day. Recycled water should be used, if available.
- During site preparation, the construction contractor shall stabilize stockpiled materials. Stockpiles within 300 feet of occupied buildings shall not exceed 8-feet in height, must have a road bladed to the top to allow water truck access, or must have an operational water irrigation system that is capable of complete stockpile coverage.
- During all construction activities, the construction contractor shall limit onsite vehicle speeds on unpaved roads to no more than 15 miles per hour.

MM 2-5 The construction contractor during Phase 2 activities shall adhere to one of the following if construction of Phase 1 overlaps with construction of Phase 2:

- The construction contractors shall install Level 2 Verified Diesel Emission Control Strategies (VDES) diesel particulate filters (DPF) on large off-road equipment that have engines rated 50 hp or greater during grading, utilities installation, paving, and concrete activities that overlap with Phase 1 building construction. A list of construction equipment by type and model year and type of DPF shall be maintained by the construction contractor onsite.
Or
- Phase 2 site improvements (grading, utilities installation, paving, and concrete construction subphases) shall not overlap with Phase 1 building construction.
- The City of Newport Beach shall verify compliance that one of these measures has been implemented during normal construction site inspections.

MM 2-6 The construction contractor shall post a sign at the entrance to the construction site. The sign shall identify the designated contact person, telephone number, and email address for construction-related complaints. Upon receipt of a complaint, the complaint shall be investigated and corrective action shall be taken, if needed. The construction contractor shall file a report to the City of Newport Beach of the nature of the complaint and action taken to remedy the complaint within two working days. A log of the complaints and resolutions to the complaints shall be maintained onsite.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to air quality that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process.

B. Biological Resources

- (1) Potential Impact:** The proposed project would remove habitat that could be used for nesting by migratory birds.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact is less than significant with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measure 3-1 requires survey and identification of any active nests in or near the project site by a qualified biologist during construction. Compliance with the requirements of Mitigation Measure 3-1 would reduce potential impacts to migratory birds to less than significant levels.

Mitigation Measures

MM 3-1 Prior to any proposed actions during the breeding season, January 31st through September 15th, the monitoring biologist shall conduct a pre-construction survey(s) to identify any active nests in and near the project area no more than three days prior to project initiation. If the biologist does not find any active nests that would be potentially impacted, the proposed action may proceed. Any active nests observed during the survey shall be mapped on a recent aerial photograph, including documentation of GPS coordinates. If the biologist finds an active nest within or adjacent to the action area and determines that the nest may be impacted, the biologist shall delineate an appropriate buffer zone around the nest using temporary plastic fencing or other suitable materials, such as barricade tape and traffic cones. The buffer zone shall range from a 300- to 500-foot radius at the discretion of the biologist. Only activities approved by the qualified biologist shall take place within the buffer zone until the nest is vacated. Once the nest is no longer active, the proposed action may proceed within the buffer zone.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to biological resources that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process.

C. Cultural Resources

- (1) Potential Impact:** Development of the project site, including excavation as deep as 15 feet, could impact archaeological and/or paleontological resources.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact is less than significant with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measure 4-1 requires a professional archaeologist to be retained to monitor ground-disturbing activities, determine potential to disturb cultural resources, and halt construction activities if necessary. Mitigation Measure 4-2

requires an Orange County–certified professional paleontologist to be retained during ground-disturbing activities to assess potential impacts to paleontological resources and prepare a paleontological mitigation plan if required. The requirements set forth in Mitigation Measures 4-1 and 4-2 would reduce paleontological impacts to less than significant levels.

Mitigation Measures

MM 4-1 Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional archaeologist has been retained to monitor any potential impacts to archaeological or historic resources throughout the duration of any ground-disturbing activities at the project site. The archeologist shall develop a Cultural Resources Awareness Training program, which shall provide examples of the types of resources that might be encountered and detail procedures to be implemented in that event. The qualified archeologist shall be present at the pregrade meeting to present the training program to all earthmoving personnel and their supervisors and to discuss the monitoring, collection, and safety procedures of cultural resources, if any are found. If subsurface cultural resources are inadvertently discovered during ground-disturbing activities, the construction contractor shall ensure that all work stops within 25 feet of the find until the qualified archeologist can assess the significance of the find and, if necessary, shall develop appropriate treatment or disposition of the resources in consultation with the City of Newport Beach and a representative of the affected Native American tribe (Gabrielino). The archeological monitor shall have the authority to halt any project-related activities that may be adversely impacting potentially significant cultural resources. Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until an archeological monitor has evaluated the discoveries to assess whether they are classified as significant cultural resources, pursuant to the California Environmental Quality Act.

MM 4-2 Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional paleontologist has been retained to monitor any potential impacts to paleontological resources throughout the duration of any ground-disturbing activities at the project site. The paleontologist shall review the project’s final plans and develop and implement a Paleontological Mitigation Plan, which shall include the following minimum elements:

- All earthmoving activities eight-feet or more below the current surface shall be monitored full-time by a qualified paleontological monitor.

- If fossils are discovered, the paleontological monitor has the authority to temporarily divert work within 25 feet of the find to allow recovery of the fossils and evaluation of the fossil locality.
- Fossil localities shall require documentation including stratigraphic columns and samples for micropaleontological analyses and for dating.
- Fossils shall be prepared to the point of identification and evaluated for significance.
- Significant fossils shall be cataloged and identified prior to being donated to an appropriate repository.
- The final report shall interpret any paleontological resources discovered in the regional context and provide the catalog and all specialists' reports as appendices.

City of Newport Beach Standard Conditions

The following City-adopted standard operating conditions of approval would apply to the proposed project:

- The City of Newport Beach has standard conditions requiring a qualified archaeologist and a paleontologist to observe construction activities and to establish procedures for redirecting work, evaluating resources, and recommending appropriate actions. More specific requirements have been prepared for this project by the cultural resources consultant, and in lieu of the standard conditions, are included in the mitigation measures below.

D. Geology and Soils

- (1) Potential Impact:** Development of the project could expose people and structures to hazards arising from expansive soils.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact is less than significant with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: On the project site, sandy to silty clays from onsite borings were found to have medium to high expansion indices. During grading operations within approximately the upper five feet of soils, the mixing and placement of various onsite soils as engineered, compacted fills would reduce hazards from expansive soils. However, additional testing of soil for expansion potential shall be conducted before the design-building phases of buildings in the Uptown Newport project.

Mitigation 6-1 requires soil testing for expansion potential to be conducted by a professional engineering geologist or registered geotechnical engineer. Compliance with the requirements of this mitigation measure would reduce expansive soil impacts to a less than significant level.

Mitigation Measures

MM 6-1 Prior to issuance of any grading permits for the project, the project applicant shall have soil testing for expansion potential conducted by a professional engineering geologist or registered geotechnical engineer. The geologist or engineer shall prepare a report describing the sampling and testing; findings; any hazards related to the findings; and recommendations for reducing any hazards identified. The project applicant shall submit a copy of the report to the City of Newport Beach Community Development Department for review and approval by the City Building Division.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to geology and soils that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process.

E. Hazards and Hazardous Materials

- (1) **Potential Impact:** Prior to the demolition of the TowerJazz manufacturing facility in Phase 2 of the project, residents of Phase 1 of the project could be at risk from an accidental release of chemicals stored at the TowerJazz facility.

Phase 1

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures. (Under Phase 2, this impact is not potentially significant.)

Facts in Support of Finding

Phase 1: The provisions of Mitigation Measures 7-1 through 7-4 would reduce the hazards impacts of the TowerJazz facility to residents during the first phase of the project. These mitigation measures require compliance for specific sections of the California Fire Code and City of Newport Beach Fire Department standards, emergency notification and disclosures, and new requirements for the use of extremely hazardous substances at the TowerJazz facility. Compliance with the provisions of Mitigation Measures 7-1 through 7-4 would reduce the risk of potential exposure of Phase 1 residents to hazards on the project site, and impacts would be less than significant.

Mitigation Measures

- MM 7-1** In compliance with CFC Section 381.1 (Amendment), prior to issuance of building permits for Phase 1, the project applicant shall submit a geologic study from a state-licensed and department-approved individual or firm to the Newport Beach Fire Department Fire Prevention Division for review and approval (due to the proximity of the proposed project to a semiconductor facility).
- MM 7-2** Prior to issuance of any building permit for Phase 1, the applicant shall demonstrate compliance with CFC Section 27041.1 (Amendment), which prohibits the storage of any amount of extremely hazardous substances equal to or greater than the disclosable amounts listed in Appendix A, Part 355, Title 40, of the Code of Federal Regulations in a residential zone or adjacent to property developed with residential uses. Compliance shall be demonstrated to the satisfaction of the Newport Beach Fire Department and shall include the following:
- Installation of a new anhydrous ammonia tank at a minimum distance of 200 feet from the nearest existing or proposed residential structure (including the adjacent Koll property project). The new tank shall be approved by the Newport Beach Fire Department, and the tank and installation shall include mitigation safeguards such as: automatic shut-off valves, excess flow valves, restrictive flow orifices, toxic gas detection system, automatic sprinkler system, water deluge system, alarm system, and double containment piping. An updated Offsite Consequence Analysis (OCA) shall be prepared to the satisfaction of the Fire Department prior installation of the new tank.
 - In the event a new anhydrous ammonia tank is not installed or the existing tank relocated, no residential structures shall be constructed within 200 feet of the anhydrous ammonia tank.
 - Demonstration of maintenance of industry best practices and provision of minimum EPGR-2 separation distances as defined by the EPA for any extremely hazardous substances (EHS) in excess of disclosable amounts. The use of the term “adjacent to” (per CFC Section 27041.1 (Amendment)) shall be interpreted to be a greater distance than an offsite consequence analysis would require as a safe EPGR-2 (or an equivalent and accepted standard) separation distance (ibid).
- MM 7-3** Prior to the issuance of occupancy permits, the applicant shall demonstrate to the satisfaction of the City of Newport Beach Fire Department that the following disclosures and emergency notification procedures/programs are in place:

- Disclosure to potential Uptown Newport residences that hazardous chemicals are used and stored at the adjacent TowerJazz facility.
- Inclusion of property manager or authorized representative of the Uptown Newport residential community to the emergency notification list of the TowerJazz Business Emergency Plan.
- Program to inform/train the property manager or authorized representative of the Uptown Newport residential community in emergency response and evacuation procedures and to incorporate ongoing coordination between the Uptown Newport representative and TowerJazz to assure proper action in the event of an accident at the facility (shelter in place and/or evacuation routes).
- Upgrade TowerJazz emergency alarm system to include concurrent notification to Uptown Newport residents of chemical release. Provisions of the alarm system and emergency notification procedure shall be reviewed and approved by the City of Newport Beach Fire Department.

MM 7-4 Prior to the introduction of a new extremely hazardous substance (EHS) or increase in quantity of any existing EHS at TowerJazz, an updated OCA shall be prepared and reviewed and authorized by the City of Newport Beach Fire Department. Any new EHS shall be appropriately located and the installation designed with all necessary mitigation safeguards specified by the City of Newport Beach Fire Department.

City of Newport Beach Standard Conditions

The project would be subject to the Newport Beach Fire Department Guidelines and City of Newport Beach Fire Code (City Municipal Code Chapter 9.04). Specific Conditions of Approval pursuant to these requirements would be specified by the Newport Beach Fire Department, and would include compliance with the following California Fire Code (CFC) requirements:

- Sections 318.1 (Amendment). A geological study from a state-licensed and department-approved individual or firm will be required due to the proximity of the proposed project to a semiconductor manufacturing facility.
- Section 2704.1.1 (Amendment). No person shall use or store any amount of extremely hazardous substances equal to or greater than the disclosable amounts as listed in Appendix A, part 355, Title 40 of the Code of Federal Regulation in a residential zone or adjacent to property developed with residential uses.

- (2) **Potential Impact:** The project site is included on a list of hazardous material sites. Project development, including soil disturbance from site grading and construction activities, could pose substantial hazards to people or the environment through the release of hazardous materials.

Phase 1

Finding: 1. The City hereby makes Finding 1 and determines that this impact (migration of VOCs from TowerJazz) would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Phase 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact (contaminated soil disturbance from removal of TowerJazz) would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phase 1: Based on conclusion in the ESA and Vapor Intrusion HRA, contamination of the Phase 1 portion of the site is limited to potential migration of VOCs from the Phase 2 portion of the site. A “No Further Action” declaration or a Letter of Allowance for residential construction for Phase 1 must be provided by the RWQCB in order for impacts to be considered less than significant. Mitigation Measure 7-5 requires issuance of this letter prior to the issuance of building permits. (A “No Further Action” letter, dated November 1, 2012, was issued by the RWQCB for Phase 1 and is included as an Appendix to Final EIR.)

Mitigation Measure

MM 7-5 Prior to the issuance of building permits for development within Phase 1, the project applicant shall obtain a “No Further Action” declaration or Letter of Allowance for residential construction for Phase 1 from the Regional Water Quality Control Board.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under E.1.

Phase 2: Soil disturbance from site grading and construction activities within the Phase 2 portion of the site could result in the release of hazardous materials that could impact Phase 1 residents and nearby office occupants. Phase 2 development could not occur until the RWQCB provides a “No Further Action” declaration or a Letter of Allowance for residential construction. The provisions of Mitigation Measures 7-6 and 7-7 would reduce potential impacts to less than significant levels.

Mitigation Measures

MM 7-6 The project applicant shall submit copies of applicable reports and plans as submitted to the RWQCB for remedial activities within the Phase 2 portion of the project site to the City of Newport Beach Community Development Department. Such copies shall include remediation action plans and annual soil and groundwater remediation progress reports.

MM 7-7 Prior to the issuance of building permits for development within Phase 2, the project applicant shall obtain a “No Further Action” declaration or Letter of Allowance for residential construction for Phase 2 from the Regional Water Quality Control Board.

City of Newport Beach Standard Conditions

See City of Newport Beach Standard Conditions listed under E.1.

- (3) Potential Impact:** Demolition of onsite buildings could result in a health risk due to the release of hazardous building materials, including asbestos and lead paint.

Phases 1 and 2

Finding: 1. Both phases of development require the demolition of buildings that likely contain asbestos-containing material (ACM) and/or lead-based paint (LBP). Mitigation Measure 7-8 would reduce impacts related to ACM and LBP to less than significant levels.

Facts in Support of Finding

Phases 1 and 2: Mitigation Measure 7-8 requires compliance with LBP and ACM regulations and documentation of testing. This would reduce the potential LBP and ACM impacts to less than significant levels.

Mitigation Measures

MM 7-8 Prior to issuance of demolition permits, the project applicant shall have the following inspections and assessments conducted for the Half Dome building (Phase 1) and TowerJazz building (Phase 2) and shall provide the Community Development Department with a copy of the report of each investigation or assessment.

- The applicant shall retain a certified lead inspector/assessor to inspect buildings onsite including any structures at the SCE substation for lead-based paint (LBP). The inspector/assessor's report shall describe regulatory requirements for lead containment applicable to any LBP discovered onsite.
- The applicant shall retain a licensed or certified asbestos consultant to inspect buildings onsite including any structures at the SCE substation for asbestos-containing materials (ACM). The

asbestos consultant's report shall include requirements for abatement, containment, and disposal of ACM in South Coast Air Quality Management District Rule 1403.

City of Newport Beach Standard Conditions

See City of Newport Beach Standard Conditions listed under E.1.

- (4) **Potential Impact:** Future residents and visitors of Phase 1 of the project would not be exposed to unacceptable levels of VOCs as a result of vapor intrusion into buildings. The health risk associated with potential soil vapor intrusion of VOCs for future Phase 2 residents is undetermined.

Phase 1

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Phase 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phase 1: Phase 1 development could not occur until the Regional Water Quality Control Board (RWQCB), as lead oversight for the remediation of the project site, has cleared the site for residential development. The RWQCB may issue a "No Further Action" declaration or Letter of Allowance for residential construction for Phase 1, as stated in Mitigation Measure 7-3. Compliance with this requirement would reduce impacts to less than significant levels. (A "No Further Action" letter, dated November 1, 2012, was issued by the RWQCB for Phase 1 and is included as an Appendix to Final EIR).

Mitigation Measure 7-3 applies to this impact.

Phase 2: The Environmental Site Assessment (ESA) concluded that potential soil vapor intrusion of VOCs north and northwest of the TowerJazz building would be a significant concern for development of Phase 2 and recommended additional soil-gas characterization of the site. Mitigation Measures 7-9 and 7-10 require additional health risk assessments pursuant to the RWQCB requirements and the remediation of any soil and groundwater contamination. Again, the RWQCB must issue a "No Further Action" declaration or Letter of Allowance for residential construction. Compliance with the requirements in Mitigation Measures 7-9 through 7-10 would reduce impacts to less than significant levels.

Mitigation Measures

MM 7-9 Prior to the issuance of building permits for Phase 2, the project applicant shall retain a registered environmental assessor or other professional qualified to conduct a human health risk assessment (HHRA) of potential volatile organic compound contamination. The HHRA shall be conducted under the guidance and review of the Regional Water Quality Control Board. Approval of tentative tract map(s) for Phase 2 shall not occur until the project applicant obtains a “No Further Action” declaration or a Letter of Allowance for residential construction from the Regional Water Quality Control Board.

MM 7-10 Prior to issuance of a building permits for Phase 2 development, the project applicant shall demonstrate to the Community Development Department that contamination in soil and groundwater on Phase 2 has been remediated to meet the cleanup goal for the site for total volatile organic compounds set by the State Water Resources Control Board and shall have obtained a “No Further Action” declaration or Letter of Allowance for residential construction from the Regional Water Quality Control Board.

City of Newport Beach Standard Conditions

See City of Newport Beach Standard Conditions listed under E.1.

- (5) **Potential Impact:** The existing SCE substation may present health hazards related to electric and magnetic fields (EMF) and/or upon demolition, release of hazardous materials.

Phase 2 Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures. (Under Phase 1, this impact is not potentially significant.)

Facts in Support of Finding

Phase 2: The demolition of the SCE substation presents risks of exposure to PCBs and related material. Mitigation Measure 7-11 requires certified inspection and the establishment of a mitigation program should PCBs or other hazardous materials be identified. Compliance with this mitigation measure would reduce impacts to less than significant levels.

Mitigation Measures

MM 7-11 Prior to the issuance of demolition permits for Phase 2, the construction dates for the SCE Substation shall be confirmed. If the facility was constructed prior to the 1980's, a certified inspector approved by the City

of Newport Beach Fire Department shall be retained to test for PCBs and related hazardous materials. If PCBs or other hazardous materials are determined to be present, a mitigation program to abate, contain and dispose of the materials shall be prepared and approved by the City Fire Department. Such program shall be implemented prior to the issuance of Phase 2 building permits.

Mitigation Measures 7-9 and 7-10 also apply to this impact.

City of Newport Beach Standard Conditions

See City of Newport Beach Standard Conditions listed under E.1.

F. Land Use and Planning

(1) Potential Impact: Project implementation would potentially conflict with applicable plans adopted for the purpose of avoiding or mitigating and environmental effect. The Airport Land Use Commission has determined that the project is inconsistent with the Airport Environs land Use Plan (AELUP) for John Wayne Airport.

Phases 1 and 2

Finding: 3. The City hereby makes Finding 3 and determines that there are no mitigation measures to reduce this impact to less than significant levels. This impact is significant and unavoidable and would require the adoption of a Statement of Overriding Considerations.

Facts in Support of Finding

Phases 1 and 2: Due to the proximity of the proposed project to the Orange County John Wayne Airport, the project must be consistent with the Airport Land Use Commission's (ALUC) regulations. Since the proposed project requires an amendment to the Koll Center Newport PCDP and adoption of its own zoning (PCDP), a consistency determination by ALUC is required prior to the Newport Beach City Council taking action on the project. The ALUC considered the proposed project at its October 18, 2012, public hearing and voted to find the project inconsistent with the Commission's AELUP for John Wayne Airport (JWA) and AELUP for heliports. The Commission based their inconsistency decision on Section 2.1.1 of the JWA AELUP, which states: "the Commission may utilize criteria for protecting aircraft traffic patterns at individual airports which may differ from those contained in FAR Part 77, should evidence of health, welfare, or air safety surface sufficient to justify such an action." Since the ALUC has made the determination that Uptown Newport is not consistent with the AELUP, approval of the project will require a two-thirds vote to override this determination. No mitigation measures are available to reduce the potentially significant impact. This impact is a significant unavoidable adverse impact and would require a Statement of Overriding Considerations.

City of Newport Beach Standard Conditions

There are no specific City-adopted standard operating conditions of approval related to land use and planning that are applicable to the proposed project at this time. However, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.), subsequent design, and/or construction process. Additionally, other applicable standard conditions are encompassed in the topical conditions that affect land use compatibility, including air quality, noise, and traffic.

G. Noise and Vibration

- (1) **Potential Impact:** The proposed project would introduce new stationary noise sources that would result in small noise increases in the vicinity of noise-sensitive land uses.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: Proposed noise-sensitive uses would be exposed to noise levels from subterranean parking garage activity and truck deliveries exceeding thresholds stated in the City's Municipal Code for residential uses. Mitigation Measures 10-1 and 10-2 would require design and operation practices that limit noise generation. Compliance with these mitigation measures would reduce impacts to less than significant levels.

Mitigation Measures

- MM 10-1** The parking lot surface of all parking garages shall be textured to eliminate tire squeal noise. Ventilation equipment for the parking garages shall be designed to meet the City's noise limits for Zone III, not exceed a daytime maximum of 60 dBA L_{eq} (or 80 dBA L_{max}) and a nighttime maximum of 50 dBA L_{eq} (or 70 dBA L_{max}). This can be accomplished by selecting quieter equipment or by enclosing ventilation equipment.
- MM 10-2** Truck deliveries shall be restricted to the daytime hours between 7 AM and 10 PM.

City of Newport Beach Standard Conditions

The following City-adopted standard operating conditions of approval would apply to the proposed project:

- The project must comply with the exterior noise standards for residential uses of the Noise Ordinance. The exterior noise level standard is 65 dBA between the hours of 7:00 AM and 10:00 PM and 60 dBA between the hours of 10:00 PM and 7:00 AM. An acoustic study shall be performed by a qualified professional that demonstrates compliance with these standards of the Noise Ordinance. This acoustic study shall be performed and submitted to the Community Development Department as part of the Site Development Review permit application for each residential structure. If the exterior noise levels exceed applicable standards, additional mitigation shall be required, which may include the installation of additional sound attenuation devices as recommended by the acoustic study and subject to the approval of the Community Development Director.
- The operator of the proposed commercial uses shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than noise limits specified in Table 5.10-3 for the specified time periods unless the ambient noise level is higher.
- All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets for each residential structure, as authorized by a Site Development Review permit, and shall be sound-attenuated in accordance with Chapter 10.26 of the Newport Beach Municipal Code, Community Noise Control.
- The City of Newport Beach Municipal Code Chapter 10.32, Sound-Amplifying Equipment requires a permit for use of any sound-amplifying equipment and regulates the volume so sound-amplifying equipment is not a nuisance to persons. The use of sound-amplifying equipment is prohibited outdoors between the hours of 8 PM and 8 AM.
- The City of Newport Beach General Plan Noise Element, thru Policy N 3.2, requires that residential development in the airport area be outside of the 65 dBA CNEL noise contour no larger than shown in the 1985 JWA Master Plan and require residential developers to notify prospective purchasers or tenants of aircraft overflight and noise.

(2) **Potential Impact:** Proposed onsite noise-sensitive uses would be exposed to exterior noise levels from vehicular traffic and from operation of the TowerJazz facility exceeding the 65 dBA CNEL standard for residential and park uses.

Phase 1: Exposure of patios and balconies facing the TowerJazz to noise levels of 65 dBA.

Phase 2: Exposure of patios and balconies facing Jamboree Road to noise levels of 65 dBA.

Phase 1

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Phase 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1: Residential patios and balconies facing the TowerJazz facility and constructed during Phase 1 would be exposed to noise levels above 65 dBA CNEL. Mitigation Measure 10-3 would reduce noise levels from operation of the TowerJazz facility and provide noise reduction at the common and private exterior living areas to meet the 65 dBA CNEL exterior noise standard. With implementation of Mitigation Measures 10-3, this impact would be less than significant.

Mitigation Measure

MM 10-3 Prior to issuance of building permits for Phase 1, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department for review and approval. The study shall demonstrate that all residential units would meet the 65 dBA CNEL exterior noise standard for all patios, balconies, and common outdoor living areas (playgrounds, parks, and swimming pools). The necessary noise reduction may be achieved by implementing noise control measures at the TowerJazz facility and at the receiver locations, as described in detail in the Technical Memorandum provided by Wilson Ihrig and Associates (Appendix J). The technical memorandum includes noise control measures that would be implemented at the rooftop mechanical equipment and at the cooling towers of the TowerJazz facility, summarized below:

- Rooftop Mechanical Equipment Noise Control
 - Exhaust Fan Noise Control: The exhaust fan noise can be most effectively controlled by constructing noise barriers

around three sides of each of the exhaust stacks, such that the barriers would be located between the stacks and the future Phase 1 development. In addition to a barrier, sound levels can be reduced by modifying the exhaust stack and fan.

- Other Equipment: Other specific pieces of rooftop equipment can be treated with barriers lined with acoustical absorption. Ducts and pipes that radiate significant noise can be treated by adding mass to the duct walls, or lined with acoustical absorption or lead-loaded vinyl.
- Screen: The performance of the existing sheet metal parapet wall/screen can be enhanced by treating the upper eight feet of the screen with acoustical absorption.
- Cooling Towers Noise Control
 - Relocation: Moving the cooling towers away from the Phase 1 development would be an effective approach to noise control.
 - Replacement: Replacement of the existing cooling towers can be considered, as new towers would have new coils with improved air flow and efficiency.
 - Additional Cooling Towers: Additional cooling towers would reduce the cooling demand on individual units, allowing the fans to operate at lower speed.
 - Fan Noise: The cooling tower fans appear to be the primary noise source. The fan noise emanates from the top of the cooling towers and from the coils. Waterfall noise, though not readily apparent, also transmits through the coils to the exterior. The following provisions may be applied to the existing cooling towers to reduce cooling tower noise: coil replacement, variable frequency drives, tip seals, aerodynamic fan blades, treatment of the discharge stack, acoustical louvers, and sound barriers.

The measures described above, or some combination thereof, would reduce the exterior noise levels at units facing the TowerJazz facility to 65 dBA CNEL. The property owner/developer shall implement these noise control measures at the TowerJazz facility and demonstrate with noise level measurements that noise from the operation of mechanical equipment at the TowerJazz facility would not exceed 65 dBA CNEL at the property boundary or at the nearest receptors.

In addition, the final grading and building plans shall incorporate the required noise barriers at common exterior areas and patios (glass/Plexiglas patio enclosures, wall, berm, or combination wall/berm) and at balconies (glass or Plexiglas balconies enclosure). Patio enclosures for units facing the TowerJazz facility would need acoustical absorption to absorb sound in the balcony. The property owner/developer shall install these barriers and enclosures.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

Phase 2: Residential patios and balconies constructed during Phase 2 and facing Jamboree Road would be exposed to noise levels above 65 dBA CNEL. Mitigation Measure 10-4 would reduce noise levels from Jamboree Road and provide noise reduction at the common and private exterior living areas to meet the 65 dBA CNEL exterior noise standard. With implementation of Mitigation Measure 10-4, this impact would be less than significant.

Mitigation Measures

MM 10-4 Prior to issuance of building permits for Phase 2, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department to demonstrate that all residential units would meet the 65 dBA CNEL exterior noise standard for all patios, balconies, and common outdoor living areas. The necessary noise reduction may be achieved by implementing noise control measures at the receiver locations. The final grading and building plans shall incorporate the require noise barriers (patio enclosure, wall, berm, or combination wall/berm), and the property owner/developer shall install these barriers and enclosures.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

- (3) **Potential Impact:** Proposed noise-sensitive uses would be exposed to interior noise levels exceeding the 45 dBA CNEL standard.

Phases 1 and 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phases 1 and 2: Standard residential windows and doors would not provide the required exterior-to-interior noise reduction to meet the interior noise level of 45 dBA CNEL. Mitigation Measures 10-5 and 10-6 would incorporate noise reduction measures in the building construction for each individual residential structure to provide the necessary exterior-to-interior noise reduction to meet the 45 dBA CNEL interior noise standard. With implementation of Mitigation Measures 10-5 and 10-6, this impact would be less than significant.

Mitigation Measures

MM 10-5 Prior to issuance of building permits for each residential structure located within Phase 1, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department to demonstrate that all residential units would meet the 45 dBA CNEL interior noise standards for habitable rooms (i.e., bedrooms, living rooms, dens, kitchens) due to exterior noise from traffic, aircraft overflights, and stationary noise from the TowerJazz facility. The report shall evaluate the effects of the precise building placement and design materials used for construction. It shall describe and quantify the noise sources impacting the buildings, the amount of outdoor to indoor noise reduction provided by the structure, and any upgrades required to meet the interior noise standard. This standard must be achieved with the windows closed in conjunction with a fresh air mechanical ventilation or air conditioning system, and it may require upgraded construction methods and materials. According to the preliminary assessment provided by Wilson Ihrig and Associates, the required noise reduction at units facing the TowerJazz facility would be achieved with acoustically rated doors and windows with a Sound Transmission Class (STC) no greater than 35. The measures described in the report shall be incorporated into the architectural plans for the buildings and implemented with building construction.

MM 10-6 Prior to issuance of building permits for each residential structure located within Phase 2, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department to demonstrate that all residential units would meet the 45 dBA CNEL interior noise standards for habitable rooms (i.e., bedrooms, living rooms, dens, kitchens) with exterior noise from traffic and aircraft overflights. The report shall evaluate the effects of the precise building placement and design materials used for construction. It shall describe and quantify the noise sources impacting the buildings, the amount of outdoor to indoor noise reduction provided by the structure, and any upgrades required to meet the interior noise standard. This standard must be achieved with the windows closed in conjunction with a fresh air mechanical ventilation or air conditioning system, and it may require upgraded construction

methods and materials. The measures described in the report shall be incorporated into the architectural plans for the buildings and implemented with building construction.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

Potential Impact: Construction of the Uptown Newport project would generate vibration levels that exceed the FTA criterion for human annoyance at nearby residential structures and affect the operation of vibration-sensitive equipment at the TowerJazz facility. **Phase 1**

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Phase 2

Finding: 1. The City hereby makes Finding 1 and determines that this impact would be reduced to less than significant levels with the incorporation of the proposed mitigation measures.

Facts in Support of Finding

Phase 1: The operation of construction equipment during Phase 1 construction would generate vibration that exceeds thresholds for annoyance and architectural damage at the TowerJazz facility, thus with the potential to adversely interfere with the operation of vibration-sensitive equipment at the TowerJazz facility. Mitigation Measures 10-7 and 10-8 would incorporate vibration control measures during construction. With Mitigation Measures 10-7 and 10-8, feasible vibration control provisions can be incorporated to reduce Phase 1 construction vibration to acceptable levels at the TowerJazz facility.

Mitigation Measures

MM 10-7 During Phase 1 construction, the construction contractor shall implement a vibration control program to reduce vibration levels at the TowerJazz facility. The Technical Memorandum prepared by Wilson Ihrig and Associates includes several measures to control vibration at the TowerJazz facility, outlined below:

- Pile Driving:
 - Augured piles shall be employed to the extent possible. Impact and vibratory pile drivers shall not be used during construction unless TowerJazz is consulted to avoid excessive vibration during operation of sensitive equipment. Constant frequency pile drivers might be acceptable if operated at sufficient distance from the

TowerJazz facility and if demonstrated to not impact TowerJazz operations.

- Heavy Construction Equipment:
 - Within 200 feet of the TowerJazz facility, wheel loaders and dozers shall be employed rather than the track-laying heavy equipment. Contractor training and notification should be conducted to minimize dozer blades and buckets being dropped on the ground for wheeled equipment operated within 200 feet of the TowerJazz facility.
 - Static rollers should be employed where compacting is required. To avoid excessive vibration during operation of sensitive equipment, vibratory rollers should not be used unless TowerJazz is consulted and ground vibration produced by such rollers is found to be acceptable to TowerJazz operations.
 - Hoe rams shall be not be used to break up concrete grade slabs within 100 feet of the TowerJazz facility and office uses adjacent to the project site. Concrete slabs can be sawed and lifted away to another location where they may be broken up by the hoe ram.
- Haul Trucks: Haul trucks shall be routed away, to the extent possible, from the TowerJazz facility.
- Lay-Down Areas: Lay-down areas include material storing areas such as piles, steel shapes, and other heavy items. The lay-down area should be located in portions of the construction site that are at least 200 feet away from the TowerJazz facility.
- Vibration Monitoring: Vibration monitoring shall be conducted in the TowerJazz building during development and construction of Phase 1. Vibration monitors shall be located in select locations where sensitive equipment is located in consultation with TowerJazz. The most appropriate location for monitoring would be at the building foundations along the exterior sides facing the construction work. Recommended thresholds for vibration monitoring have been developed based on past vibration monitoring at the TowerJazz facility during the seismic retrofit and on the vibratory characteristics of construction equipment that are anticipated to be used during construction of Phase 1. Recommended thresholds for vibration monitoring are:
 - A vibration level of 0.125 in/sec will trigger a warning that will notify the construction operator and TowerJazz;

- A vibration level of 0.250 in/sec will trigger a warning that will notify the construction operator and TowerJazz of excessive vibration and that the construction activity that is causing the excessive vibration should be stopped.
- Construction activity may recommence upon satisfactory assessment that the continued construction activity will not substantially affect the use of vibration-sensitive equipment or interfere with operations at the TowerJazz facility. Final protocol for notification to TowerJazz and construction equipment operators will be determined and documented in a vibration monitoring plan prepared prior to construction.

MM 10-8 Augured piles shall be employed to the extent possible. Impact and vibratory pile drivers shall not be used during construction within 75 feet of any building.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

Phase 2: The operation of construction equipment during Phase 2 construction would generate vibration that exceeds thresholds for annoyance and architectural damage at the Phase 1 offices and residences. Mitigation Measure 10-8 would incorporate vibration control measures during construction. With Mitigation Measure 10-8, feasible vibration control provisions can be incorporated to reduce Phase 2 construction vibration to acceptable levels at the offices and residences.

Mitigation Measure 10-8 applies to this impact.

- (4) **Potential Impact:** Construction activities at Uptown Newport would substantially elevate the daytime noise environment in the vicinity of nearby uses.

Phases 1 and 2

Finding: 3. The City hereby makes Finding 3 and determines that although mitigation measures are able to reduce the significance of this impact, the impact is not avoided. This impact would be significant and unavoidable.

Facts in Support of Finding

Phases 1 and 2: During construction of Phase 1, construction activity would have the potential to cause annoyance and interfere with activities at the office buildings and the TowerJazz facility facing the construction area. In addition, construction of Phase 2 would result in high noise levels at the residential uses built during project Phase 1 and at existing office buildings adjacent to the project site. Mitigation Measures 10-9 to 10-12 would reduce noise levels from construction activities at the nearby uses during Phase 1 and Phase 2. However, because of the height of the buildings adjacent to the

project site, sound walls blocking line of sight between construction activities and nearby noise-sensitive receptors would be infeasible. Because many of the residential areas overlook proposed construction activities, sound walls would not be effective at these locations. Despite the application of mitigation measures, nearby noise-sensitive uses would be temporarily exposed to elevated noise levels during construction activities. This impact would remain significant and unavoidable, and a statement of overriding considerations would be required.

Mitigation Measures

- MM 10-9** The construction contractor shall ensure that all construction equipment onsite is properly maintained and tuned to minimize noise emissions.
- MM 10-10** The construction contractor shall ensure that construction equipment is fit with properly operating mufflers, air intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer.
- MM 10-11** The construction contractor shall locate all stationary noise sources (e.g., generators, compressors, staging areas) as far from residential and recreational receptor locations as is feasible.
- MM 10-12** Material delivery, soil haul trucks, equipment servicing, and construction activities shall be restricted to the hours set forth in the City of Newport Beach Municipal Code, Section 10.28.040.

City of Newport Beach Standard Conditions

See the City of Newport Beach Standard Conditions listed under G.1.

6. FINDINGS REGARDING ALTERNATIVES

A. Alternatives Considered and Rejected During the Scoping/Project Planning Process

The following is a discussion of the land use alternatives considered during the scoping and planning process and the reasons why they were not selected for detailed analysis in the DEIR.

1. Alternative Project Location

CEQA requires that the discussion of alternatives focus on alternatives to the project or its location that are capable of avoiding or substantially lessening any significant effects of the project. Only locations that would avoid or substantially lessen any of the significant effects of the project need be considered for inclusion in the EIR (CEQA Guidelines Section 15126.6[f][2][A]). Key factors in evaluating the feasibility of potential offsite locations for EIR project alternatives include:

- if it is in the same jurisdiction;
- whether development as proposed would require a General Plan Amendment;
- whether the project applicant could reasonably acquire, control, or otherwise have access to the alternative site (or the site is already owned by the proponent) (CEQA Guidelines Section 15126.6[f][1]).

Since the project applicant does not own or control other property within the City, the evaluation of potential alternate sites focused on sites that could accommodate a development similar to the proposed project without a General Plan Amendment within the City limits.

In addition to the Airport Area, three other areas in the City allow mixed use similar to the proposed project. These include a strip of parcels along the northern side of Coast Highway in the Mariner's Mile Corridor, a number of parcels along the northern end of Newport Center fronting San Joaquin Hills Road, and a number of interior parcels of the Cannery Village area. As shown in the City's General Plan Land Use Element in Figures LU26, "Mariner's Mile," LU21, "Newport Center/Fashion Island," and LU19, "Balboa Peninsula, Lido Village, Cannery Village, McFadden Square," these areas are designated Mixed Use Horizontal 1 (MU-H1), Mixed Use Horizontal 3 (MU-H3), and Mixed Use Horizontal 4 (MU-H4), respectively. The allowed residential density for these areas, however, is less than allowed for the proposed project site. The MU-H1 and MU-H4 designations permit a density of 20.1 to 26.7 dwelling units per net acre (du/acre), and the areas designated MU-H3 are only permitted a maximum of 450 dwelling units. These areas of mixed-use designation do not have adequate size or density to accommodate a project similar to Uptown Newport, which would include 1,244 dwelling units at a density of 50 du/acre.

Other sites within the Airport Area could accommodate the proposed project without a General Plan Amendment (see Draft EIR Figures 3-3, Aerial Photograph, and 3-4, Airport Area Planning Designations). There are other parcels with the same land use designation (Mixed-Use Horizontal-2 [MU-H2]) as the proposed project site. However, these parcels are developed, privately owned, and currently occupied. Also, as described in Section 4.0 of the Draft EIR, Environmental Setting, an application for development of the adjacent Koll Center site has been filed with the City. There are no vacant parcels within the Airport Area of sufficient size to accommodate a project similar to Uptown Newport.

In general, any development of similar size and type proposed by the project within the Airport Area could experience ongoing operational impacts similar to the proposed project, including air quality (regional), greenhouse gas emissions, population/housing, public services, recreation, transportation/traffic, and utilities/service systems. Demolition impacts, including air quality, greenhouse gas (GHG) emissions, and noise, therefore, could likely not be avoided. However, without a detailed analysis, site-specific impacts for an alternate Airport Area site, including aesthetics, biological resources, cultural resources, geology/soils, hydrology/water quality, and hazards/hazardous materials, cannot be directly compared. With the exception of hazards/hazardous materials, these impacts would be anticipated to be similar to the project site.

An alternate location within the Airport Area would likely eliminate the unique impacts associated with the development of the TowerJazz site and inherent incompatibility of the semiconductor manufacturing facility with the interim residential use for Phase 1 of the proposed project. The significant impacts associated with this adjacency, however, including operational noise and potential hazards, are less than significant for the proposed project upon mitigation.

Development of the proposed project at another location within the Airport Area would not eliminate the significant construction-related air quality and noise impacts or significant land use impact pending a consistency determination of the project with the AELUP.

For these reasons, the City determined that an alternative development site for the proposed project would not be a feasible alternative (CEQA Guidelines Section 15126.6[f][2][B]).

2. Optional Project Phasing Alternative

This alternative was considered for its potential to reduce or eliminate significant impacts related to the concurrent operation of the TowerJazz facility adjacent to Phase 1 residences that would occur under the proposed project. Under this alternative, demolition of the Half Dome building and Phase 1 site improvements and building construction would proceed as currently defined for the proposed project. Building occupancy of Phase 1 residential structures, however, would be postponed until expiration of the TowerJazz lease and cessation of the semiconductor manufacturing operation.

Under the proposed project, it is anticipated that the earliest residential units in Phase 1 could be constructed and ready for occupancy as early as mid-2015 (the entire phase is anticipated to be complete by 2018). Under the Optional Project Phasing alternative, no residences could be occupied until at least 2017; if TowerJazz renewed the lease, Phase 1 residences could not be occupied until 2027. This alternative, however, would allow the retail operations in Phase 1 (11,500 square feet, including an upscale restaurant) to commence operation.

The Optional Phasing Alternative would reduce the following project-related significant impacts associated with the adjacency of occupied residential uses and the TowerJazz operation: operational noise and hazards (potential chemical release). Under the proposed project, this interim condition could exist for 6 to 12 years assuming occupancy of some Phase 1 units as early as mid-2015 and extension of the TowerJazz lease to 2027. This alternative would not reduce the construction-related impacts of Phase 2 demolition and development on Phase 1 residents, nor potential hazards related to building demolition of final Phase 2 area, since these activities would occur after Phase 1 occupancy. Moreover, it would not reduce or eliminate the potentially significant vibration impact of Phase 1 construction on sensitive TowerJazz equipment.

This alternative would not modify the impact significance of construction-related air quality or noise impacts, or the significant land use impact (AELUP consistency finding).

Although this alternative has the potential to eliminate significant impacts related to the adjacency of Phase 1 residents during TowerJazz operation, it was rejected for further analysis. Both the impacts that would be eliminated under this alternative would be mitigated to less than significant under the proposed project. Although Phase 1 residential units could

be constructed, occupancy would be postponed until 2017 under the best case for this alternative (up to 2 years for some of the units) and potentially until 2027 under the lease option (at least 9 years for all of Phase 1 residents and up to 12 years for some units). It would not be economically feasible for the project applicant to incur the development cost for this extended period of time without a return on investment. Moreover, property and building maintenance costs would be incurred while the residential buildings remained vacant. And finally, vacant buildings would not be desirable for the City and may be subject to vandalism and/or other criminal activity.

B. Alternatives Selected for Analysis

Based on the criteria listed above, the following three alternatives have been determined to represent a reasonable range of alternatives that could potentially attain most of the basic objectives of the project and have the potential to avoid or substantially lessen one or more of the significant effects of the project. These alternatives are analyzed in detail in the following sections.

- Hotel/Office/Commercial Alternative
- Office/Commercial/Residential Alternative
- Reduced Density Alternative

Additionally, this section analyzes the No Project Alternative, as required by CEQA.

An EIR must identify an “environmentally superior” alternative, and where the No Project Alternative is identified as environmentally superior, the EIR is required to identify as environmentally superior an alternative from among the others evaluated. Each alternative's environmental impacts are compared to the proposed project and determined to be environmentally superior, neutral, or inferior. However, only significant and unavoidable impacts are used in making the final determination of whether an alternative is environmentally superior or inferior to the proposed project. Only the impacts involving air quality (short-term construction related), land use and planning, and noise (short-term construction related) were found to be significant and unavoidable. Section 7.8 identifies the environmentally superior alternative.

The proposed project is analyzed in detail in Chapter 5 of the DEIR.

1. Alternatives Comparison

Table 2, *Statistical Summary Comparison*, identifies information regarding dwelling units, proposed land uses, and population and employment projections, and also provides the jobs-to-housing ratio for the proposed project and each of the alternatives.

Table 2
Statistical Summary Comparison

	Proposed Project	No Project Alternative	Hotel/Office/Commercial Alternative	Office/Commercial/Residential Alternative	Reduced Density Alternative
Land Use Statistics					
Dwelling Units	1,244 DU	—	—	830 DU	561 DU
Commercial/Retail	11,500 sf	—	20,000 sf	7,000 sf	11,500 sf
Office	—	126,675 sf	160,000 sf	100,000 sf	—
Industrial	—	311,452 sf	0	0	0
Hotel (Rooms)	—	—	174	—	—
Park Space	2.05 ac	—	1.52 ac	1.40 ac	2.05 ac
Population ¹	2,724	—	—	1,818	1,229
Employment					
Commercial ²	26	—	44	16	26
Office ³	—	135	455	284	—
Hotel ⁴	—	—	96	—	—
Industrial	—	3,000	—	—	—
Total	26	3,135	595	300	26
Jobs-to-Housing Ratio ⁵	1.78	1.91	1.85	1.88	1.81

¹ Assumes 2.19 persons per household as determined in 2010 Census for Newport Beach (Census 2012).

² Assumes 450 square feet per employee, per SCAG's Employment Density Study Summary Report (2001).

³ Assumes 352 square feet per employee for low-rise office uses, per SCAG's Employment Density Study Summary Report (2001).

⁴ Assumes 1,804 square feet per employee, per SCAG's Employment Density Study Summary Report (2001). Since SCAG's report does not provide a square foot per hotel employee rate for Orange County, the regional rate of 1,804 was used to develop the number of employees for this alternative.

⁵ Jobs-to-housing ratio is based on SCAG projections for the City of Newport Beach in 2035, similar to what was analyzed for the proposed project in Section 5.11, *Population and Housing*.

For each of the alternatives analyzed herein, with the exception of the No Project Alternative, the following components/elements would be similar to the proposed project:

- Development would be consistent with the City's General Plan and would require the preparation of a regulatory plan (i.e., Planned Community Development Plan) and related implementation plans (Phasing Plan and Design Guidelines).
- Development would occur in two primary phases, and the phase boundaries would be the similar to the boundaries shown in Figure 3-6 of the Draft EIR, *Site Plan and Phasing Plan*.
- Operation of the TowerJazz facility would continue as an interim use after the development of Phase 1 and would be demolished under Phase 2.
- Phase 1 would commence in 2014 and be completed by 2018. Timing for Phase 2 would be contingent on the existing lease of the TowerJazz building, which is currently set to expire in March 2017, but could be extended to as late as March 2027.

- The Southern California Edison (SCE) substation would remain during the initial operation of Phase 1 to serve the electricity needs of the TowerJazz facility, and would be demolished in Phase 2.
- The overall project acreage (25.05 acres) and acreage by phase (12.29 for Phase 1 and 12.76 for Phase 2) would remain the same.
- The overall land use mix would be trip neutral as required by the City's General Plan (by definition, projects consistent with allowed uses under the General Plan would be trip neutral).
- Parking would include a mix of surface and structure parking (subterranean and above-ground).
- Vehicular and pedestrian site access would be similar.
- Building heights would be regulated by the Federal Aviation Administration (FAA) regulations and standards outlined in the required regulatory plan.

Table 3 provides a comparison of the vehicle trips that would be generated by the proposed project and each of the alternatives.

Table 3 Trip Generation Comparison							
	Trip Generation Estimates						
	Daily	AM Peak Hour			PM Peak Hour		
		In	Out	Total	In	Out	Total
Proposed Project	9,033	134	511	644	537	292	829
No Project	747	90	12	102	15	88	102
Hotel/Office/Commercial Alternative	3,983	289	76	365	126	278	404
Commercial/Office/Residential Alternative	6,805	223	362	584	362	311	672
Reduced Density Alternative	4,139	64	233	297	236	135	370

a) No Project Alternative

Description: Under the No Project Alternative, no development would occur on the project site, the existing buildings and structures onsite (TowerJazz building, Half Dome building, and Southern California Edison substation) would remain and not be demolished, and the TowerJazz facility would continue operating. All other site improvements (e.g., parking areas, landscaping, sidewalks) would also remain in their existing condition. It is assumed for this alternative that the TowerJazz facility would remain onsite and operate indefinitely.

Environmental Effects: A full discussion of the No Project Alternative's environmental impacts as compared to the proposed project is set forth in Section 7.4.1 of the Draft EIR, which is hereby incorporated by reference. In comparison to the proposed project, the No Project Alternative would reduce impacts to air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, noise, and vibration, public services, and recreation. This alternative would eliminate the

significant unavoidable construction-related impacts for air quality and noise, as well as the significant, unavoidable land use and planning impact related to the inconsistency finding by AELUP for the Uptown Newport project. Aesthetic and transportation and traffic impacts under this alternative would be similar to the proposed project. GHG impacts would be substantially greater for the No Project Alternative, and population/housing and utilities/services impacts would also be greater than the proposed project. Overall, the No Project Alternative would have less environmental impacts than the proposed project and would eliminate all its significant, unavoidable impacts.

Ability to Achieve Project Objectives: The No Project Alternative would not achieve any of the objectives of the proposed project, because it would not implement the goals and objectives that the City's General Plan and ICDP have established for the project site. The General Plan's policies for the Airport Area and the ICDP call for the orderly evolution of this area from a single-purposed business park to a mixed-use district with cohesive residential villages integrated within the existing fabric of the office, industrial, retail, and airport-related businesses. This alternative would not provide housing in close proximity to jobs and supporting services, with pedestrian-oriented amenities that facilitate walking and enhance livability.

Feasibility: Since the No Project Alternative would allow the existing land uses (TowerJazz facility, Half Dome building, and Southern California Edison substation) to continue operating on the project site, the feasibility of this alternative would rely on the economic feasibility of indefinite operation of the TowerJazz manufacturing operation. No changes to the existing conditions would occur, and all operations would continue indefinitely.

Finding: In comparison to the proposed project, the No Project Alternative would reduce impacts to air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, land use and planning, noise and vibration, public services, and recreation. This alternative would eliminate the significant unavoidable construction-related impacts for air quality and noise, as well as the significant, unavoidable land use and planning impact related to the inconsistency finding by AELUP for the Uptown Newport project. Aesthetic and transportation and traffic impacts under this alternative would be similar to the proposed project. GHG impacts would be substantially greater for the No Project Alternative, and population/housing and utilities/services impacts would also be greater than the proposed project. From a policy perspective, this alternative would fail to provide the City with additional housing opportunities, including affordable housing, which is an identified need in the City's Housing Element. It would also fail to implement the Airport Business Area Integrated Conceptual Development Plan (ICDP), which calls for the redevelopment of the project with residential villages integrated with the existing fabric of the office, industrial, retail, and airport-related businesses. Overall, the No Project Alternative would have fewer environmental impacts than the proposed project and would eliminate all its significant, unavoidable impacts, making it the environmentally superior alternative. However, since the No Project Alternative fails to meet project objectives, provide affordable housing, and implement the ICDP, it has been rejected by the City in favor of the proposed project.

b) Hotel/Office/Commercial Alternative

Description: This alternative was selected for its potential to eliminate impacts associated with the adjacency of residential uses to the operating TowerJazz manufacturing facility during Phase 1. Land use incompatibility concerns associated with the proximity of residential uses to TowerJazz include noise and hazards. Under this alternative, Phase 1 would include up to 174 hotel rooms (including conference, banquet facility, etc.), and Phase 2 would provide up to 160,000 square feet of office uses and 20,000 square feet of commercial uses, as shown in Table 2, *Statistical Summary Comparison*. This alternative could potentially include subterranean parking for one or more of the uses.

Phase 1

The Half Dome building and other associated site improvements, including parking areas, landscaped and common areas, and other hardscape improvements, would be demolished. Upon demolition, this phase would include the development of up to 174 hotel rooms (including conference, banquet facility, etc.) and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The hotel rooms could be accommodated within low- and midrise buildings with a maximum building height of 75 feet.

Phase 2

Under Phase 2, the TowerJazz building, northern parking area, and other remaining site improvements would be demolished to develop 160,000 square feet of office uses and 20,000 square feet of commercial uses and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The office and commercial uses could be accommodated within low- and midrise buildings with a maximum building height of 75 feet.

Environmental Effects: A full discussion of the Hotel/Office/Commercial Alternative's environmental impacts compared to the proposed project's is set forth in Section 7.5.2 of the Draft EIR, which is hereby incorporated by reference. In comparison to the proposed project, the Hotel/Office/Commercial Alternative would reduce impacts to air quality, GHG, hazards, noise, public services, recreation, and utilities and services. As shown in Table 3, this alternative would substantially reduce traffic trips, reducing average daily trips by approximately 56 percent in comparison to the proposed project. In comparison to the proposed project, however, peak trips would contribute to the existing peak trip patterns (AM peak into site, PM peak departure), so overall traffic impacts would be similar to the proposed project. It would comply with CFC Section 2704.1.1 (Amendment), since it would not locate residents adjacent to extremely dangerous chemicals and thus would eliminate a potentially significant impact associated with the project as proposed. This impact, however, would be mitigated to less than significant, so this alternative would not eliminate a significant, unavoidable impact. Land use and planning, and population and housing impacts for this alternative would be greater than for the proposed project; aesthetics, biological resource, cultural resources, geology and soils, and hydrology/water quality impacts would be similar. This alternative would not eliminate any of the significant, unavoidable impacts associated with the proposed project.

Ability to Achieve Project Objectives: With the exception of the provision of beneficial site improvements, including implementing a WQMP, the Hotel/Office/Commercial Alternative

would not achieve any of the key objectives of the proposed project. It would not implement the goals and objectives that the City's General Plan and ICDP have established for the project site. The General Plan's policies for the Airport Area and the ICDP call for the orderly evolution of this area from a single-purpose business park to a mixed-use district with cohesive residential villages integrated with the existing fabric of the office, industrial, retail, and airport-related businesses. This alternative would not provide housing in close proximity to jobs and supporting services, with pedestrian-oriented amenities that facilitate walking and enhance livability.

Feasibility: Although the Hotel/Office/Commercial Alternative would be physically feasible, it may not be economically feasible. It is uncertain whether this alternative would yield a reasonable return on investment. Although statistics are not readily available for the demand for hotel units, information does indicate a depressed market demand for office use in the Orange County airport area as of the 4th quarter of 2011 (CBRE 2011). As of that quarter, the office vacancy rate was 24.9 percent, and it was estimated that it would take 8.5 years to absorb all of the available and under-construction Class A office space based on an annual absorption rate (2011) of 769,204 square feet for the Greater Airport area. Office use by Phase 2 of the project could be feasible if the economy picks up. If the office vacancy rate drops to approximately 7 percent, the existing office availability (including under construction) could be absorbed in approximately 4.2 years, and new office uses could be marketable. With a 5.7 percent vacancy rate, the retail market is better than the office market, but still depressed.

Finding: This alternative would only meet one of the eight project objectives, but it would reduce environmental impacts to air quality, GHG, hazards, noise, public services, recreation, and utilities and services. Also, because it does not include the development of residential land uses, it would comply with CFC Section 2704.1.1 (Amendment) regarding the location of residents adjacent to extremely dangerous chemicals (a potentially significant impact associated with the proposed project), and it would be consistent with the AELUP (a significant impact of the proposed project since the Airport Land Use Commission did not grant a consistency finding). It would not eliminate any of the significant, unavoidable impacts associated the proposed project. Moreover, it would not provide affordable housing, an identified need in the City's Housing Element, it would not implement the ICDP, and it may be economically infeasible. For these reasons, the City finds that the proposed project is preferred over this alternative.

c) Office/Commercial/Residential Alternative

Description: This alternative was selected for its potential to eliminate impacts associated with the adjacency of residential uses to the operating TowerJazz manufacturing facility during Phase 1 while still providing residential uses in Phase 2. Land use incompatibility concerns associated with the proximity of residential uses to TowerJazz include noise and hazards. Other impacts that could potentially be reduced by this alternative, although not determined significant for the proposed project, were anticipated to be aesthetics, air quality, and health risk (TowerJazz air emissions).

This alternative would include the development of office, commercial, and residential uses. More specifically, Phase 1 would include up to 100,000 square feet of office uses and 7,000 square

feet of commercial uses, and Phase 2 would include up to 830 dwelling units, as shown in Table 2, *Statistical Summary Comparison*. This alternative could potentially include subterranean parking for one or more of the uses.

Phase 1

Phase 1 would include demolition of the Half Dome building and other associated site improvements, including parking areas, landscaped and common areas, and other hardscape improvements. Upon demolition, this phase would include the development of up to 100,000 square feet of office uses and 7,000 square feet of commercial uses and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The office and commercial uses could be accommodated within low- and midrise buildings with a maximum building height of 75 feet. The commercial land use has been situated with frontage on Jamboree Road and might encompass restaurant uses as does the proposed project.

Phase 2

Under Phase 2, the TowerJazz building, northern parking area, and other remaining site improvements would be demolished to develop up to 830 dwelling units and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. As with the proposed project, a variety of housing developments could be anticipated under this alternative. Residential product types could be for sale and/or rent—a mix of apartments, townhouses, and condominiums. Residential buildings may include low-rise rowhouses and 4- and 5-story apartments or condominiums featuring a range of floor plan sizes. Mid- to high-rise buildings are also envisioned. Midrise buildings would not exceed 75 feet in height, and high-rise buildings would not exceed 150 feet in height.

Phase 2 would also include a 1.02-acre neighborhood park similar to proposed project. The park would be privately maintained and publicly accessible. In addition to the neighborhood park, public open space areas, private open space area, and ancillary amenities would be provided to serve residents and visitors, and paseo and walkway connections would be provided onsite and to surrounding areas.

Environmental Effects: A full discussion of the Office/Commercial/Residential's environmental impacts compared to the proposed project's is set forth in Section 7.6.1 of the Draft EIR, which is hereby incorporated by reference. In comparison to the proposed project, the Office/Commercial/Residential Alternative would reduce impacts to air quality, GHG, hazards, noise, public services, recreation, and utilities and services. As shown in Table 3, traffic trips would be reduced by approximately 25 percent in comparison to the proposed project. Since residential uses would not be introduced until Phase 2 after the TowerJazz facility is removed, it would comply with CFC Section 2704.1.1 (Amendment); that is, it would not locate residents adjacent to extremely dangerous chemicals. This would eliminate a potentially significant impact associated with the project as proposed. This impact, however, would be mitigated to less than significant, so it would not eliminate a significant, unavoidable impact. Land use and planning and population and housing impacts for this alternative would be greater than for the proposed project, and aesthetics, biological resource, cultural resources, geology and soils, and hydrology/water quality impacts would be similar.

Ability to Achieve Project Objectives: With the introduction of 830 residential units as part of a mixed-use residential village, this alternative would meet several of the project's objectives. It would be consistent with several of the goals and policies of the General Plan for the Airport Area, although it would not be consistent with the ICDP approved for the site, which provides for the development of 1,244 residential units. This alternative would provide 7,000 square feet of commercial use (or potentially more) and therefore achieve the objective to provide retail commercial to serve local residents, businesses, and visitors. Although less than the proposed project, this alternative would provide housing near jobs and supporting services, with pedestrian-oriented amenities, and would provide the phased transition from the existing use to the office, commercial, and residential uses. It would also provide several of the beneficial impacts of the proposed project, including implementing a WQMP.

Feasibility: As with the Hotel/Office/Commercial Alternative, the Office/Commercial/Residential alternative would be physically feasible but it may not be economically feasible. It is uncertain whether this alternative would be a viable project that could yield a reasonable return on investment. As discussed in Section 6.B.1.b., there is currently a high vacancy rate for offices (24.9 percent). It is highly unlikely that office use in Phase 1 of this alternative would be viable. It is more likely that the 7,000 square feet of commercial use could be absorbed under this alternative.

Finding: The Office/Commercial/Residential Alternative would reduce impacts to air quality, GHG, hazards, noise, traffic, public services, recreation, and utilities and services, and it would meet several of the project's objectives. However, this alternative would increase the land use and planning and population and housing impacts when compared to the proposed project. Based on the ALUC's inconsistency finding for the proposed project, it is anticipated that this alternative would also be inconsistent with the AELUP since it would place residential uses within the AELUP planning area. It would also be inconsistent with the ICDP, since it does not provide 1,244 units, unlike the proposed project. For these reasons, the City finds that the proposed project is preferred over this alternative.

d) Reduced Intensity Alternative

Description: This alternative evaluates the minimum number of residential units that could be developed on the project site and still comply with the 30 dwelling units/acre minimum density prescribed for the site in the City's General Plan and the ICDP. Based on an estimated, net developable 12.34 acres for the site, 561 units could be developed: 260 dwelling units in Phase 1 and 301 in Phase 2. As with the proposed project, this alternative is assumed to include 11,500 square feet of commercial use in Phase 1.

This alternative was evaluated for its potential to reduce overall long-term operational project impacts due to the substantial reduction in housing units. This alternative was also designed to provide a larger open-space buffer between the TowerJazz facility and Phase 1 to evaluate the potential to minimize compatibility impacts in Phase 1 of the proposed project related to the proximity of the TowerJazz facility and residences.

As with the proposed project, a variety of housing developments could be anticipated under this alternative. Residential product types would be for sale and rent with a mix of apartments, townhouses, and condominiums. Since the number of units would be reduced by 55 percent in comparison to the proposed project, both the overall footprint and height of residential buildings could be reduced in comparison to the proposed project. Residential buildings would include low-rise townhouses and 4- and 5-story apartments or condominiums featuring a range of floor plan sizes. Mid- to high-rise buildings are also envisioned at a maximum height of 75 feet. This alternative would not include any high-rise towers up to 150 feet, as proposed under the proposed project. The commercial component would include neighborhood-serving retail and services.

As with the proposed project, it is assumed that this alternative would include some improved park space that would be available for public use. With the reduction in housing units, it is anticipated that open space acreage could be increased relative to the proposed project (as shown in the conceptual plan, Figure 7-3 of the Draft EIR). As shown in the conceptual layout, approximately eight acres may be available for open space uses. It has not been defined whether the entire open space area would be maintained privately and be available to the public. In addition, public open space areas, private open space areas, and ancillary amenities would be provided to serve residents and visitors, and paseo and walkway connections would be provided onsite and to surrounding areas.

Phase 1

Phase 1 would include demolition of the Half Dome building and other associated site improvements, including parking areas, landscaped and common areas, and other hardscape improvements. Upon demolition, this phase would include the development of up to 260 dwelling units and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The dwelling units could be accommodated in low-, mid- or high-rise buildings or a mix of these building types. Phase 1 would also include up to 11,500 square feet of neighborhood-serving commercial uses and likely improvements to a portion of the open space to serve as a neighborhood park, available also for public use.

Phase 2

Under Phase 2, the TowerJazz building, northern parking area, and other remaining site improvements would be demolished to develop up to 301 dwelling units and other associated site improvements, including parking areas, drive aisles, walkways, landscaping, and common areas. The dwelling units could be accommodated within low-, mid- or high-rise buildings, or a mix of these building types. Phase 2 would also include open space area that could accommodate a neighborhood park, which would be available to the public.

Environmental Effects: In comparison to the proposed project, the Reduced Density Alternative would reduce impacts to air quality, GHG, hazards, noise, public services, recreation, traffic, and utilities and services. Average daily traffic trips would be reduced approximately 54 percent (see Table 3). Since residential uses would still be included in Phase 1, it would not eliminate the significant impacts associated with resident incompatibility with adjacency to the TowerJazz facility during an interim period. It would reduce these impacts,

however, because of both the reduction in units and increased distance to the TowerJazz facility. Impacts to aesthetics, biological resources, cultural resources, hydrology and water quality, and land use and planning would be similar to the proposed project. It would not eliminate any significant impacts of the proposed project, and impacts to population and housing would be considered greater than the proposed project.

Ability to Achieve Project Objectives: With the introduction of 561 residential units and 11,500 square feet of commercial uses as part of a mixed-use residential village, this alternative would meet several of the project's objectives. It would be consistent with several of the goals and policies of the General Plan for the Airport Area, and it would be consistent with the minimum density of 30 du/acres prescribed by the ICDP. It would provide 11,500 square feet commercial use (or potentially more), and therefore achieve the objective to provide retail commercial to serve local residents, businesses, and visitors. Although fewer than the proposed project, this alternative would provide housing near jobs, supporting services, and pedestrian-oriented amenities and would provide the phased transition from the existing use to the office and residential uses. It would also provide several of the beneficial impacts of the proposed project, including implementing a WQMP. It is unlikely, however, that this alternative would be a viable project that could yield a reasonable return on investment. The project would only develop 260 dwelling units in the first phase and overall would include over eight acres in open space, which would not provide a direct return on investment. It is uncertain whether the return from Phase 1 could support the development costs for Phase 2 or that development returns could support the infrastructure and improvements costs required for the overall project.

Feasibility: This alternative is considered physically and environmentally feasible but may not be economically feasible. The project would only develop 260 dwelling units in the first phase and overall would include over eight acres in open space, which would not provide a direct return on investment. It is uncertain whether the return from Phase 1 could support the development costs for Phase 2 or that development returns could support the infrastructure and improvements costs required for the overall project.

Finding: While the Reduced Intensity Alternative would lessen some of the environmental effects of the proposed project, it would not eliminate any significant and unavoidable impacts. In addition, as with the proposed project, it is anticipated that it would be inconsistent with the AELUP, since it would be placing residential land uses within the AELUP planning area. For these reasons, the City finds that the proposed project is preferred over this alternative.

B. STATEMENT OF OVERRIDING CONSIDERATIONS

INTRODUCTION

The City is the Lead Agency under CEQA for preparation, review, and certification of the Final EIR for the Uptown Newport Project. As the Lead Agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant, and which can be mitigated through imposition of mitigation measures to avoid or minimize those impacts to a level of less than significant. CEQA then requires the Lead Agency to balance the benefits of a proposed action against its significant unavoidable adverse environmental impacts in determining whether or not to approve the proposed Project. In making this determination the City is guided by State CEQA Guidelines Section 15093 which provides as follows:

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal (sic) project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in an EIR and thereby leave significant unavoidable effects, the public agency must also find that overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects of the project.

Pursuant to Public Resources Code Section 21081(b) and the State CEQA Guidelines Section 15093, the City has balanced the benefits of the proposed Project against the following unavoidable adverse impacts associated with the proposed Project and has adopted all feasible mitigation measures with respect to these impacts. The City also has examined alternatives to the proposed Project, none of which both meet the Project

objectives and is environmentally preferable to the proposed Project for the reasons discussed in the Findings and Facts in Support of Findings.

The Newport City of Beach City Council, the Lead Agency for this Project, and having reviewed the Final EIR for the Uptown Newport Project, and reviewed all written materials within the City's public record and heard all oral testimony presented at public hearings, adopts this Statement of Overriding Considerations, which has balanced the benefits of the Project against its significant unavoidable adverse environmental impacts in reaching its decision to approve the Project.

Significant Unavoidable Adverse Environmental Impacts

Although most potential Project impacts have been substantially avoided or mitigated, as described in the Findings and Facts in Support of Findings, there remain some Project impacts for which complete mitigation is not feasible. For some impacts, mitigation measures were identified and adopted by the Lead Agency, however, even with implementation of the measures, the City finds that the impact cannot be reduced to a level of less than significant. The impacts and alternatives are described below and were also addressed in the Findings.

The EIR identified the following unavoidable adverse impacts of the proposed Project:

Air Quality

Phase 1

EIR Impact 5.2-2: Short-term construction emissions generated by the Uptown Newport project would result in oxides of nitrogen (NOx) emissions that exceed the South Coast Air Quality Management District's (SCAQMD) regional significance thresholds during site preparation activities (year 2014 for Phase 1 and year 2017 and 2018 for Phase 2) and when construction activities of various phases overlap (year 2017 and 2018) and would cumulatively contribute to the nonattainment designations of the South Coast Air Basin (SoCAB). Of the eight years of construction, project-related construction activities would only exceed SCAQMD's threshold for three of those years because significant off-road equipment use and haul trucks are not necessary during vertical building construction. Mitigation Measure 2-1 would reduce NOx generated by exhaust. Use of newer construction equipment would reduce construction emissions onsite. However, onsite emissions in addition to offsite emissions generated by haul trucks would generate substantial quantities of NOx and would continue to exceed SCAQMD's regional significance threshold. Therefore, this impact would remain significant and unavoidable.

Phase 2

Same significant and unavoidable impact for Phase 1 applies to Phase 2.

Land Use

Phase 1

EIR Impact 5.9-3: The Airport Land Use commission (ALUC) considered the Uptown Newport project at its hearing held on October 18, 2012 and voted to find the project inconsistent with the Commission's *Airport Environs Land use Plan (AELUP) for John Wayne Airport (JWA) and AELUP for Heliports*. Project approval would require a 2/3 vote by the City Council to override this finding and this impact constitutes a significant, unavoidable impact of the project. No mitigation measures are available that would reduce this impact to less than significant. Therefore, this impact would remain significant and unavoidable.

Phase 2

Same significant and unavoidable impact for Phase 1 applies to Phase 2.

Noise

Phase 1

EIR Impact 5.10-6: During Phase 1 development, construction activity would have the potential to cause annoyance and interfere with activities of occupants at the nearby office buildings adjacent to the project site and at the TowerJazz facility facing the construction area. Because of the height of the office buildings adjacent to the project site, sound walls to block the line of sight between construction activities and nearby offices would be infeasible. Despite the application of mitigation measures, occupants at the offices adjacent to the project site would be temporarily exposed to elevated noise levels during construction activities, and this impact would remain significant and unavoidable.

Phase 2

EIR Impact 5.10-6: The operation of heavy construction equipment during construction of Phase 2 would result in high noise levels at the residential buildings constructed under Phase 1 and at office buildings adjacent to the project site. Because of the height of these buildings, sound walls to block the line of sight between construction activities and nearby residents and office occupants would be infeasible. Despite the application of mitigation measures, nearby noise-sensitive uses would be temporarily exposed to elevated noise levels during construction activities, and this would remain significant and unavoidable.

In addition, the EIR evaluated four alternatives to the Project and analyzed whether these alternatives could avoid or substantially lessen the unavoidable environmental impacts of the proposed Project. While some of the alternatives could lessen or avoid some of the unavoidable impacts of the proposed Project, some of the alternatives also resulted in different and in some cases, increased environmental impacts, consequently, for the reasons set forth in Section 6 of the Facts and Findings, none of the alternatives were determined to be feasible:

- No Project Alternative (Continuation of Existing Land Uses).
- Hotel/Office/Commercial Alternative
- Office/Commercial/Residential Alternative
- Reduced Density Alternative

The City, after balancing the specific economic, legal, social, technological, and other benefits including region-wide or statewide environmental benefits, of the proposed Project, has determined that the unavoidable adverse environmental impacts identified above may be considered acceptable due to the following specific considerations which outweigh the unavoidable, adverse environmental impacts of the proposed Project, in accordance with CEQA Section 21081(b) and State CEQA Guideline Section 15093.

1. Payment of a public benefit fee per residential dwelling unit developed as part of the Project, including an annual adjustment to the public benefit fee based on the Consumer Price Index ("CPI").
2. Park land dedication and improvements consistent with applicable State law and Municipal Code provisions, including the dedication and improvement of over two (2) acres of on-site public parkland.
3. Perpetual annual private maintenance of over two (2) acres of on-site public parks.
4. Improvement of private open space, including paseos and urban plazas that will be accessible to the public and connect the Project and surrounding properties to promote connectivity and pedestrian travel in the Airport Area.
5. Remediation of soil and groundwater contamination on the Property that has existed on-site since the mid-1980's.
6. Reduction in greenhouse gases generated within the Airport Area.
7. Reduction in electric, gas, water and sewer utility usage through the redevelopment of an existing industrial manufacturing site into a residential mixed use project.
8. Reduction of urban runoff volumes and implementation of stormwater runoff water quality facilities that will improve the quality of stormwater runoff entering the Newport Back Bay.
9. Construction of affordable housing units within the Project that will provide affordable housing opportunities to Newport Beach residents.

EXHIBIT D

PLANNED COMMUNITY DEVELOPMENT PLAN AMENDMENT NO. PD2011-003

Consists of:

- Revised Planned Community Development Plan #15 (Koll Center Planned Community) showing the removal (in ~~strike-out~~) of Industrial Site 1 (the Property) with all its references, allowable land uses, and general development regulations including all written text, maps and exhibits.
- Inclusion of a footnote to indicate the removal of Industrial Site 1 and all reference to it by Ordinance No. _____ of the City Council on _____.
- No other change to the Koll Center Planned Community are recommended and it shall remain in full force and effect.

PLANNED COMMUNITY DEVELOPMENT STANDARDS
For Koll Center Newport

Ordinance No. 1449, adopted by the City of Newport Beach August 14, 1972
(Amendment No. 313)

Original draft

May 5, 1972

Amendment (1)	August 14, 1972
Amendment (2)	August 14, 1972
Amendment (3)	August 2, 1973
Amendment (4)	February 7, 1974
Amendment (5)	June 10, 1974
Amendment (6)	May 15, 1975
Amendment (7)	September 8, 1975
Amendment (8)	June 28, 1976
Amendment (9)	January 10, 1977
Amendment (10)	July 11, 1978
Amendment (11)	August 28, 1978
Amendment (12)	October 19, 1978
Amendment (13)	November 10, 1980
Amendment (14)	March 23, 1981
Amendment (15)	October 24, 1984
Amendment (16)	May 14, 1984
Amendment (17)	December 9, 1985
Amendment (18)	July 14, 1986
Amendment (19)	March 23, 1987
Amendment (20)	July 27, 1987
Amendment (21)	June 12, 1989
Amendment (22)	April 25, 1994
Amendment (23)	October 9, 1995
Amendment (24)	February 23, 1998
Amendment (25)	August 10, 1998
Amendment (26)	January 11, 2000
Amendment (27)	January 25, 2000
Amendment (28)	August 9, 2005
Ordinance No. 2006-19 (29)	July 25, 2006
Ordinance No. 2006-21 (30)	October 24, 2006
Ordinance No. 2011-3 (31)	January 25, 2011
Ordinance No. 2011-8(32)	March 8, 2011
<u>Amendment (33)</u>	<u>, 2013</u>

NOTE: See Footnotes beginning on Page 47 for description of amendments.

CONTENTS

	<u>PAGE NO.</u>
PREFACE	1
DEVELOPMENT CONSIDERATIONS	2
GENERAL NOTES	7
DEFINITIONS	8
PART I. <u>INDUSTRIAL</u>	
| <u>Section I.</u> Statistical Analysis	40
| <u>Section II.</u> Light Industrial Permitted Uses	41
| <u>Section III.</u> Industrial Service & Support Facilities Permitted Uses	42
| <u>Section IV.</u> General Development Standards for Industry	42
PART II. <u>COMMERCIAL</u>	
<u>Section I.</u> Site Area and Building Area	15
<u>Section II.</u> Permitted Uses	26
<u>Section III.</u> General Development Standards for Commercial Land	30
PART III. <u>GENERAL PARKING REQUIREMENTS</u>	
<u>Section I.</u>	34
PART IV. <u>GENERAL SIGN REQUIREMENTS</u>	
<u>Section I.</u> Sign Standards	37
<u>Section II.</u> Sign Area	40

	<u>PAGE NO.</u>
<u>Section III.</u> Maintenance	41
PART V. <u>GENERAL LANDSCAPE STANDARDS</u>	
<u>Section I.</u> General Statement	42
PART VI. <u>FOOTNOTES</u>	47
PART VII. <u>ATTACHED EXHIBITS</u>	
Composite.....	For Information Only
Exhibit A	Land Use
Exhibit B.....	Grading and Roads
Exhibit C.....	Storm Drain
Exhibit D	Water & Sewer
Exhibit E.....	Boundary and Topography

PREFACE

It is the intent of this Planned Community Development to provide comprehensive zoning for what is now the Collins Radio property. Planned within this development are a hotel with banquet and convention facilities, a small retail and service center, service stations, restaurants, bars and theater/nightclubs, a site for the proposed Orange County Courthouse with the balance of the acreage developed as a business and professional office park emphasizing open space.

~~Remaining within the park will be the existing Collins Radio facility. It will be incorporated into the park, designed as an integral element, and designated within the light industrial segment.~~

DEVELOPMENT CONSIDERATIONS (1)

This Planned Community Development is a project of The Koll Company. This area is most appropriate for commercial and light industrial uses, and therefore we submit the enclosed air traffic analysis, vehicular analysis, land use analysis and market analysis to substantiate this document. Attached drawings indicate land use, grading and roads, storm drains, water and sewer, topography and traffic analysis.

The site is comprised of approximately ~~179.0~~154.0 acres and is generally bounded on the northeast by Campus Drive, on the southeast by Jamboree Road and on the west by MacArthur Boulevard. (10)(33)

In order to insure development consistent with the master plan concept, a review shall be required. Prior to the issuance of any building permits, a precise development plan shall be submitted by the developer to the Planning Director for review. This precise plan shall conform to the requirements of this Planned Community text and all other applicable codes and regulations and shall be approved prior to submission by The Koll Company. Included in the plan review material shall be:

1. Building Criteria
 - a. size
 - b. location
 - c. height
 - d. materials
2. Parking Criteria
 - a. areas, including drives and accesses
 - b. quantity
 - c. size
3. Landscaped Areas
 - a. setbacks
 - b. walls
 - c. plazas
 - d. pools, fountains and/or other amenities
4. Signing Criteria
 - a. location
 - b. size
 - c. quantity
5. All other site improvements as directed by the Planning Director and as recommended below. Items 5a through 5e inclusive.

a. Sewage System Criteria

The sewer system in the vicinity of the lake should be revised to conform to the following criteria:

1. All sewer lines should be located such that they will not be under water even when the lake is at its maximum level.
2. Sewer lines shall be located in 15-foot wide (minimum) easements and must be accessible to maintenance vehicles at all times.
3. The depth of sewer lines should not exceed 15 feet, with the possible exception of joining the existing system at MacArthur Boulevard.

b. Pedestrian Circulation

A pedestrian sidewalk system along the public streets shall be constructed throughout the development. The adequacy of such system shall be analyzed independently of any on-site pedestrian walkway system proposed for a particular portion of the development.

c. Bicycle Circulation

A system of bicycle paths coordinated with the City's Master Plan of Bicycle Trails and meeting the approval of the Planning Director and the Director of Parks, Beaches and Recreation shall be developed and maintained within the planned community.

d. Erosion Control

Landscaping plans shall incorporate provisions for Erosion Control on all graded sites which will remain vacant for a considerable period of time prior to commencement of building construction.

e. Traffic Considerations

- i. Both MacArthur Boulevard and Jamboree Road shall be widened to provide for 6 through lanes, double left turn lanes at all intersections, and free right turning lanes at all intersections.
- ii. Von Karman shall be widened at the intersection with MacArthur Boulevard to provide 6 lanes.

- iii. All streets on the site except for Von Karman shall be flared to provide at least 5 lanes at intersections with peripheral streets.
- iv. Birch Street shall be flared to 5 lanes at the intersection with Von Karman.
- v. Campus Drive shall be widened to provide dual left turn lanes at Von Karman.
- vi. Von Karman shall be improved for its full length from MacArthur Boulevard to Campus Drive in conjunction with initial development of areas which do not take primary access from Campus Drive or Jamboree Road.
- vii. Access rights to MacArthur Boulevard shall be dedicated to the City except for the Birch Street and Von Karman Avenue intersections. Consideration may be given to providing additional access points at a later date if more detailed traffic studies demonstrate the desirability of such additional access points. Consideration shall be limited to right turn egress and right and left turn ingress. (11)
- viii. Traffic signals shall be constructed at the intersections of MacArthur Boulevard with Birch Street and with Von Karman Avenue when the latter two streets are opened. The developer shall be responsible for 50% of the cost of the signal at Von Karman and 50% of the cost of the signal at Birch Street.
- ix. A traffic signal shall be constructed at the intersection of Campus Drive and Jamboree Road in conjunction with the initial stages of development. The developer shall be responsible for 25% of the cost of the signal.
- x. A traffic signal shall be installed at the intersection of Von Karman and Birch Street, with the developer to be responsible for 100% of the cost. Construction shall be scheduled so that the signal will be completed not later than June 30, 1977. (8)
- xi. A traffic signal shall be installed at the intersection of Von Karman and Campus Drive, with the developer to be responsible for 50% of the cost. Construction shall be scheduled so that the signal will be completed not later than December 30, 1976. (8)

A traffic signal shall be installed at the intersection of Jamboree Boulevard and Birch Street, with the developer to be responsible for 50% of the cost. Construction shall

be scheduled so that the signal will be completed not later than June 30, 1977. (8)

In order to accomplish the schedule for construction of these two signals, a cooperative agreement may be entered into between the developer and the City. The agreement shall provide for the developer to advance the nondeveloper share of the funding, if necessary; with provisions for reimbursement by the City. The agreement may also provide for a credit to the developer for funds advanced for the City's share of construction costs for signals constructed elsewhere in the project. (8)

- xii. Provision for other traffic signals shall be investigated in conjunction with the process of development at a later date.
- xiii. Phasing of Development. 1,651,757 sq. ft. of development was existing or under construction as of October 1, 1978. The additional allowable development in the total approved development plan is 1,058,863 sq.ft. Any further development subsequent to October 1, 1978, in excess of 30% of the additional allowable development, being 317,658 sq. ft., shall be approved only after it can be demonstrated that adequate traffic facilities will be available to handle that traffic generated by the project at the time of occupancy of the buildings involved. Such demonstration may be made by the presentation of a phasing plan consistent with the Circulation Element of the Newport Beach General Plan. (12)

f. Airport (2)

The following disclosure statement of the City of Newport Beach's policy regarding the Orange County Airport shall be included in all leases or subleases for space in the Planned Community Development and shall be included in the Covenants, Conditions and Restrictions recorded against the property.

Disclosure Statement (2)

The Lessee herein, his heirs, successors and assigns acknowledge that:

- i. The Orange County Airport may not be able to provide adequate air service for business establishments which rely on such service;
- ii. When an alternate air facility is available, a complete phase out of jet service may occur at the Orange County Airport;

- iii. The City of Newport Beach may continue to oppose additional commercial air service expansion at the Orange County Airport;
- iv. Lessee, his heirs, successors and assigns will not actively oppose any action taken by the City of Newport Beach to phase out or limit jet air service at the Orange County Airport.

GENERAL NOTES

Water within the planned community area will be furnished by the Irvine Ranch Water District.

Prior to or coincidental with the filing of any tentative map or use permit, the developer shall submit a master plan of drainage to the Director of Public Works.

The height of all buildings and structures shall comply with Federal Aviation Authority criteria.

Except as otherwise stated in this ordinance, the requirements of the zoning code, City of Newport Beach, shall apply.

The contents of this supplemental text notwithstanding, no construction shall be proposed within the boundaries of this planned community district except that which shall comply with all provisions of the Building Code and the various mechanical and electrical codes related thereto.

DEFINITIONS

Advertising Surface:

The total area of the face of the structure, excluding supports.

Area of Elevation:

Total height and length of a building as projected to a vertical plane.

Building Line:

An imaginary line parallel to the street right-of-way line specifying the closest point from this street right-of-way that a building structure may be located (except for overhangs, stairs and sunscreens).

Right-of-Way Line:

When reference is made to right-of-way line it shall mean the line which is then established on either the adopted Master Plan of Streets and Highways or the filed Tract Map for Minor Roads as the ultimate right-of-way line for roads or streets.

Side and Front of Corner Lots:

For the purpose of this ordinance, the narrowest frontage of a lot facing the street is the front, and the longest frontage facing the intersecting street is the side, irrespective of the direction in which the structures face.

Sign:

Any structure, device or contrivance, electric or non-electric and all parts thereof which are erected or used for advertising purposes upon or within which any poster, bill, bulletin, printing, lettering, painting, device or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, pasted or otherwise fastened or affixed.

Commerce:

All those permitted uses as specified in Section II, Group I through VII, inclusive, in this text.

Commercial Land:

The site area upon which any or all commercial permitted uses would exist.

Site Area: (3)

The total land area of the land described in the use or other permit, including footprint lots.

Special Landscaped Street:

Special landscaped streets are designated as MacArthur Boulevard, Jamboree Boulevard and Campus Drive. The landscaping requirements for special landscaped streets and for the remaining streets are described in the following text.

Streets - Dedicated and Private:

Reference to all streets or rights-of-way within this ordinance shall mean dedicated vehicular rights-of-way. In the case of private or non-dedicated streets, a minimum setback from the right-of-way line of said streets of ten (10) feet shall be required for all structures. Except for sidewalks or access drives, this area shall be landscaped according to the setback area standards from dedicated streets contained herein.

Driveway:

Vehicular access ways onto or within private property exclusive of streets, dedicated or private. A minimum separation of five (5) feet shall be maintained between all driveways and buildings.

Footprint Lot: (3)

The area of land required for the building pad, encompassing the peripheral area of the building. Appurtenant and contiguous to the footprint lot shall be all parking, landscape, setbacks and other areas as described and required by this text.

Landscape Area: (4)

The landscape area shall include walks, plazas, water and all other areas not devoted to building footprints or vehicular parking and drive surfaces. In calculating area of required landscaping any off-site landscaping such as landscaped medians or parkways in street rights-of-way shall not be included.

PART I. INDUSTRIAL ~~– Deleted. (33)~~

~~Section I. Statistical Analysis~~

~~A. Building Sites~~

~~Acreages shown are net buildable land area including landscape setbacks, within property lines. (4) (8)(21)~~

~~Site 1 25.043 acres 25.043 acres~~

~~B. Allowable Building Area~~

~~Site 1 442,775 sq. ft. 10.16 acres~~

~~C. Parking Criteria (8) (21)~~

~~The following statistics are for information only. Development may include but shall not be limited to the following:~~

~~To allow a basis for calculation parking was assumed to be three (3) spaces per one thousand (1000) square feet of building and at one hundred twenty (120) cars per acre.~~

~~Site 1 1,329 cars 11.07 acres~~

~~D. Landscaped Open Space (8) (21)~~

~~Site 1: Area 25.043 acres~~

~~Building 10.160 acres~~

~~14.883 acres~~

~~Parking area 11.070 acres~~

~~Net Open Space 3.813 acres~~

~~Section II. Light Industrial Permitted Uses~~

- ~~A. To allow uses primarily engaged in research activities, provided that such activities are confined within a building or buildings and do not contribute excess noise, dust, smoke, vibration, odor, toxic or noxious matter to the surrounding environment nor contain a high hazard potential, due to the matter of the product material or processes involved. Such activities may include but shall not be limited to research laboratories and facilities; developmental laboratories and facilities and compatible light manufacturing related to the following list of examples:~~

- ~~1. Bio-Chemical
Chemical
Film and Photography
Medical and Dental
Metallurgy
Pharmaceutical
X-Ray~~
- ~~2. Manufacture, research assembly, testing components, devices, equipment and systems and parts and components such as but not limited to the following list of examples:

Coils, Tubes, Semi-Conductors
Communication, Navigation Control, Transmission and Reception Equipment, Control Equipment and Systems
Guidance Equipment and Systems
Glass Edging, Beveling, and Silvering
Data Processing Equipment and Systems
Graphics, Art Equipment
Metering Instruments
Optical Devices, Equipment and Systems
Phonographs, Audio Units, Radio Equipment and Television Equipment
Photographic Equipment
Radar, Infrared and Ultraviolet Equipment and Systems
Scientific and Mechanical Instruments
Testing Equipment~~

- ~~B. To allow the location of offices and areas associated with and accessory to the permitted uses listed under A:~~

- ~~1. Administrative, professional and business offices.~~
- ~~2. Regional or home offices of industries which are limited to a single use.~~
- ~~3. Blueprinting, photostating, photo engraving, printing, publishing and bookbinding, provided that no on site commercial service is associated with said uses.~~

- ~~4. Cafeteria, cafe, restaurant, bar, theater/nightclub or auditorium subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (25)~~
- ~~5. Service stations will be permitted, subject to a use permit, provided that no on site commercial service is associated with said uses.~~
- ~~C. To allow auto detailing as a permitted use subject to the following conditions:~~
 - ~~1. All drainage shall be into the sanitary sewer system.~~
 - ~~2. That all car wash and auto detailing operations shall be conducted within a covered area.~~
 - ~~3. This service shall be designed to serve building tenants and their patrons and guests, and shall be ancillary to the primary use. (19)~~

~~Section III. Industrial Service and Support Facilities Permitted Uses (1)~~

- ~~A. To allow a combination of general industry, business and professional offices, and industrial support activities, provided that such activities are confined within a building or buildings, and do not contribute excessive noise, dust, smoke, vibration, odor, toxic or noxious matter to the surrounding environment nor contain a high hazard potential due to the nature of the products, materials or processes involved.~~
 - ~~1. All uses permitted under Part 1, Section II. A and Section II. B:~~
 - ~~a. Business and professional offices.~~
 - ~~b. Industrial Support Facilities, to include activities limited to the sale of products or services.~~
 - ~~c. Distribution and warehousing plants.~~

~~Section IV. General Development Standards for Industry~~

- ~~A. Site Area (3)~~
 - ~~Minimum site area shall not be less than thirty thousand (30,000) square feet. Footprint lots shall have all required appurtenant areas contiguous thereto and the sum of these areas shall not be less than thirty thousand (30,000) square feet.~~
- ~~B. Building Areas~~
 - ~~Maximum building areas shall be as noted in the Statistical Analysis, Part 1, Section I.~~

~~C. Building Height~~

~~Building heights of structures shall be limited to a height of seventy five (75) feet. The height of a single vertical column (15 feet wide by 15 feet deep) associated with an Air Separation Plant (the function is to extract gas, i.e., nitrogen, oxygen, etc., from air), which supports on-site manufacturing activities, shall be limited to ninety (90) feet above ground level and shall in no way exceed the height limits set by the Federal Aviation Authority for Orange County Airport. Additionally, this vertical column shall be set back a minimum of 650 feet from Jamboree Road and 780 feet from Birch Street (property lines). The facility shall be limited to one column on site, unless otherwise approved in conjunction with a use permit approved by the Planning Commission for the relocation or replacement of the air separation column with a new column. Exception: existing non-conforming structures. (21) (22) (24)~~

~~D. Setbacks~~

~~All setbacks shall be measured from the property line. For the purpose of this ordinance, a street side property line is that line created by the ultimate right of way line of the frontage street.~~

~~1. Front Yard Setback~~

~~Thirty (30) feet minimum, except that unsupported roofs or sunscreens may project six (6) feet into the setback area.~~

~~2. Side Yard Setback~~

~~Ten (10) feet, except that unsupported roofs and sunscreens may project three (3) feet into the setback area.~~

~~In the case of a corner lot, the street side setback shall be thirty (30) feet, except that unsupported roofs and sunscreens may project six (6) feet into the setback area. Interior lot lines for a corner lot shall be considered side lot lines.~~

~~3. Rear Yard Setback~~

~~No rear yard setback is required except on a through lot in which case the required front yard setback shall be observed.~~

~~4. Footprint Lots (6)~~

~~Except as required by the Uniform Building Code there shall be no additional setback requirements for buildings within footprint lots. Provided, however, that buildings within footprint lots shall be so located as to observe the setbacks from streets and existing lot lines required under Part I, Section IV.D.1, 2 and 3.~~

~~E. Site Coverage~~

~~Maximum building coverage of fifty (50) percent is allowed. Parking structures shall not be calculated as building area, however, said structures shall be used only for the parking of company vehicles, employees' vehicles, or vehicles belonging to persons visiting the subject firm.~~

~~F. Signs~~

~~All signing shall be as specified in the General Sign Requirements, Part IV.~~

~~G. Pedestrian Access (1)~~

~~It is required of all developments in the industrial support facility area to submit a plan of pedestrian access to the Planning Department prior to the issuance of a building permit. Said plan will detail consideration for pedestrian access to the subject property and to adjacent properties, and shall be binding on subsequent development of the property. The plan shall show all interior walkways, and all walkways and parkways in the public right of way, if such walkways are proposed or necessary.~~

~~H. Parking~~

~~All parking shall be as specified in the General Parking Requirements, Part III.~~

~~I. Landscape~~

~~All landscaping shall be as specified in the General Landscape Requirements, Part V.~~

PART II COMMERCIAL

Section I. Site Area and Building Area

Group I PROFESSIONAL & BUSINESS OFFICES

Acreages shown are net buildable land area including landscape setbacks with property lines. (4)

A. Building Sites (4)

	<u>Total Acreage</u>	<u>Office Acreage</u>
Site A	30.939 acres *(29)	30.939 acres *(29)
Site B	43.703 acres (11)	43.703 acres (11)
Site C	18.806 acres (10)	18.806 acres (10)
Site D	19.673 acres	19.673 acres
Site E	2.371 acres	2.371 acres
Site F	1.765 acres	1.765 acres
Site G	<u>5.317 acres (8)</u>	<u>5.317 acres (8)</u>
	<u>122.574 acres (8)(10)(11)</u>	<u>122.574 acres(8)(10)(11)</u>

B. Allowable Building Area

Site A	366,147 square feet (16)(26)(29)(30)
Site B	977,720 square feet (13)(16)(28)(30)(32)
Site C	674,800 square feet (10)(15)
Site D	240,149 square feet (8)(13)
Site E	32,500 square feet (4)
Site F	42,646 square feet (4)(31)
Site G	<u>45,000 square feet (8)</u>
	<u>2,378,962 square feet (15)(*)(31)</u>

C. Statistical Analysis (4)

The following statistics are for information only.
Development may include but shall not be limited to the following:

Story heights shown are average heights for possible development. The buildings within each parcel may vary.

Assumed Parking Criteria:

- a. One (1) space per 225 square feet of net building area @ 120 cars per acre for Sites C, D, E, F and G.

*(3)(4) In addition to 19.399 acres of office use, there is 9.54 acres for hotel and motel and 2.0 acres of lake within Office Site A. Therefore, there are 30.939 acres net within Office Site A. (3)(4)(16)

- b. One (1) space per 300 square feet of net building area @
120 cars per acre for Sites A, B and C. (11)

1. Site A

Allowable Building Area 366,147 square feet (16)(26)(29)(30)
Site Area 19.399 acres *(3)(4)(16)

- a. Building Height Land Coverage (16)(29)(30)
- | | |
|--------------------------|------------------|
| Two story development | 4.20 acres |
| Three story development | 2.80 acres |
| Four story development | 2.10 acres |
| Five story development | 1.68 acres |
| Six story development | 1.40 acres |
| Seven story development | 1.20 acres |
| Eight story development | 1.05 acres |
| Nine story development | 0.93 acres |
| Ten story development | 0.84 acres |
| Eleven story development | 0.76 acres |
| Twelve story development | 0.70 acres |
- b. Parking Land Coverage
- | | |
|------------|---------------------------------|
| 1,221 cars | 10.18 acres (11,16,29,30) |
|------------|---------------------------------|
- c. Landscaped Open Space (4, 11,16) Land Coverage (29,30)
- | | |
|--------------------------|------------------|
| Two story development | 5.02 acres |
| Three story development | 6.42 acres |
| Four story development | 7.12 acres |
| Five story development | 7.54 acres |
| Six story development | 7.80 acres |
| Seven story development | 8.02 acres |
| Eight story development | 8.17 acres |
| Nine story development | 8.29 acres |
| Ten story development | 8.38 acres |
| Eleven story development | 8.46 acres |
| Twelve story development | 8.52 acres |

2. Site B

Allowable Building Area 977,720 square feet (13,16,28,30)
Site Area 43.703 acres (4) (11)

a. <u>Building Height</u>		<u>Land Coverage</u>
(16,28,30,32))		
Two story development	.....	11.22 acres
Three story development	.....	7.48 acres
Four story development	.....	5.61 acres
Five story development	.....	4.49 acres
Six story development	.....	3.74 acres
Seven story development	.....	3.21 acres
Eight story development	.....	2.81 acres
Nine story development	.....	2.49 acres
Ten story development	.....	2.24 acres
Eleven story development	.....	2.04 acres
Twelve story development	.....	1.87 acres
b. <u>Parking</u>		<u>Land Coverage</u>
(11,13,16,28,30,32))		
3,259 cars	.....	27.16 acres
c. <u>Landscaped Open Space</u> (11)		<u>Land Coverage</u>
(11,13,16,28,30,32))		
Two story development	.....	5.32 acres
Three story development	.....	9.06 acres
Four story development	.....	10.93 acres
Five story development	.....	12.05 acres
Six story development	.....	12.80 acres
Seven story development	.....	13.33 acres
Eight story development	.....	13.73 acres
Nine story development	.....	14.05 acres
Ten story development	.....	14.30 acres
Eleven story development	.....	14.50 acres
Twelve story development	.....	14.67 acres
3. <u>Site C</u> (10)		
Allowable Building Area	.....	674,800 square feet (15) (17)*
Site Area	.....	18.806 acres (4)
a. <u>Building Height</u>		<u>Land Coverage</u> (15)
Two story development	.....	7.75 acres
Three story development	.....	5.16 acres
Four story development	.....	3.87 acres
Five story development	.....	3.10 acres
Six story development	.....	2.58 acres
Seven story development	.....	2.21 acres
Eight story development	.....	1.94 acres
Nine story development	.....	1.72 acres
Ten story development	.....	1.55 acres
Eleven story development	.....	1.41 acres
Twelve story development	.....	1.29 acres

b.	<u>Parking</u>	<u>Land Coverage</u> (15)
	2,249 cars	..... 18.74 acres

* The square footage includes a maximum of 3,250 square feet for up to two (2) restaurants, bars, or theater/nightclubs. Any portion or all of the floor area not utilized for the purpose shall revert to professional and business office use. (17)

c.	<u>Landscaped Open Space</u>	<u>Land Coverage</u> (4)(15)
	Two story development	..... -7.68 acres
	Three story development	..... -5.09 acres
	Four story development	..... -3.80 acres
	Five story development	..... -3.03 acres
	Six story development	..... -2.51 acres
	Seven story development	..... -2.14 acres
	Eight story development	..... -1.87 acres
	Nine story development	..... -1.65 acres
	Ten story development	..... -1.48 acres
	Eleven story development	..... -1.34 acres
	Twelve story development	..... -1.24 acres

4. Site D

Allowable Building Area	..... 240,149 square feet (8)(13)
Site Area	..... 19.673 acres (4)

a.	<u>Building Height</u>	<u>Land Coverage</u> (8) (13)
	Two story development	..... 2.75 acres
	Three story development	..... 1.84 acres
	Four story development	..... 1.38 acres
	Five story development	..... 1.10 acres
	Six story development	..... 0.92 acres
	Seven story development	..... 0.79 acres
	Eight story development	..... 0.69 acres
	Nine story development	..... 0.61 acres
	Ten story development	..... 0.55 acres
	Eleven story development	..... 0.50 acres
	Twelve story development	..... 0.46 acres

b.	<u>Parking</u>	<u>Land Coverage</u> (8) (13)
	1,067 cars	..... 8.89 acres

c.	<u>Landscaped Open Space</u>	<u>Land Coverage (4) (8) (13)</u>
	Two story development	..... 8.03 acres
	Three story development	..... 8.94 acres
	Four story development	..... 9.40 acres
	Five story development	..... 9.68 acres
	Six story development	..... 9.86 acres
	Seven story development	..... 9.99 acres
	Eight story development	..... 10.09 acres
	Nine story development	..... 10.17 acres
	Ten story development	..... 10.23 acres
	Eleven story development	..... 10.28 acres
	Twelve story development	..... 10.32 acres

5. Site E

Allowable Building Area	..... 32,500 square feet (4)
Site Area	..... 2.371 acres (4)

a.	<u>Building Height</u>	<u>Land Coverage (4)</u>
	Two story development	..... 0.37 acres
	Three story development	..... 0.25 acres
	Four story development	..... 0.19 acres
	Five story development	..... 0.15 acres
	Six story development	..... 0.12 acres
	Seven story development	..... 0.11 acres
	Eight story development	..... 0.10 acres
	Nine story development	..... 0.09 acres
	Ten story development	..... 0.08 acres
	Eleven story development	..... 0.07 acres
	Twelve story development	..... 0.06 acres

b.	<u>Parking</u>	<u>Land Coverage (4)</u>
	144 cars	..... 1.20 acres

c.	<u>Landscaped Open Space (4)</u>	<u>Land Coverage</u>
	Two story development	..... 0.80 acres
	Three story development	..... 0.92 acres
	Four story development	..... 0.98 acres
	Five story development	..... 1.02 acres
	Six story development	..... 1.05 acres
	Seven story development	..... 1.06 acres
	Eight story development	..... 1.07 acres
	Nine story development	..... 1.08 acres
	Ten story development	..... 1.09 acres
	Eleven story development	..... 1.10 acres
	Twelve story development	..... 1.11 acres

6. Site F (4)(31)

Allowable Building Area	..... 42,646 square feet
Site Area	..... 1.765 acres

a.	<u>Building Height</u>	<u>Land Coverage</u>
	One story development	..... 0.98 acres
	Two story development	..... 0.49 acres
	Three story development	..... 0.33 acres
	Four story development	..... 0.24 acres
	Five story development	..... 0.20 acres
	Six story development	..... 0.16 acres
b.	<u>Parking</u>	<u>Land Coverage</u>
	190 cars	..... 1.58 acres
c.	<u>Landscaped Open Space</u>	<u>Land Coverage</u>
	One story development	..... <0.80> acres
	Two story development	..... <0.31> acres
	Three story development	..... <0.15> acres
	Four story development	..... <0.06> acres
	Five story development	..... <0.02> acres
	Six story development	..... <0.03> acres

7. Site G (8)

Allowable Building Area	..... 45,000 square feet
Site Area	..... 5.317 acres

a.	<u>Building Height</u>	<u>Land Coverage</u>
	One story development	..... 1.03 acres
	Two story development	..... 0.52 acres
	Three story development	..... 0.34 acres
	Four story development	..... 0.26 acres
b.	<u>Parking</u>	<u>Land Coverage</u>
	200 cars	..... 1.67 acres
c.	<u>Landscaped Open Space</u>	<u>Land Coverage</u>
	One story development	..... 2.62 acres
	Two story development	..... 3.13 acres
	Three story development	..... 3.31 acres
	Four story development	..... 3.39 acres

Building Height

Maximum building height shall not exceed twelve (12) stories above ground level, and shall in no way exceed the height limits set by the Federal Aviation Authority for Orange County Airport.

Conclusions

The preceding figures indicate that within a fixed maximum density as the height of the building increases the resulting open landscaped area also increases.

Group II. HOTEL & MOTEL (1)

A. Building Sites

For the purposes of this statistical analysis, 9.54 acres have been allotted for hotel and motel development. This acreage is for statistical purposes only. It is necessary to allot a specific acreage within this analysis to secure office building densities within their specific parcels. Development may include but shall not be limited to this acreage. The hotel and motel site size shall be determined at the time a use permit is secured.

B. Building Height

Maximum building height shall not exceed height limits set by the Federal Aviation Authority for Orange County Airport.

Group III. COURT HOUSE

A. Building Site

Site 1: 7.80 acres 7.80 acres

B. Building Area

Site 1: 90,000 square feet 90,000 square feet

The following statistics are for information only. Development may include but shall not be limited to the following.

C. Parking

400 Cars 3.33 acres

D. Landscaped Open Space

Land Coverage

Two story development	3.44 acres
Three story development	3.78 acres
Four story development	3.95 acres
Five story development	4.06 acres
Six story development	4.13 acres

E. Building Height

Maximum building height shall not exceed height limits set by the Federal Aviation Authority for Orange County Airport.

Group IV.

A.

Site 3: 1.765 acres 1.765 acres

Service station site 3 shall be located within Office Site F and shall not exceed 1.765 acres in size. Any portion or all of Site 3 not utilized for service station use shall revert to either professional and business office use or restaurant use. (4)

Group V.

A.

Maximum acreages for Site 2 shall not exceed 1.25 (18) acres. Maximum acreage for Site 3: 1.765 acres. Maximum acreages for Sites 4 and 5 shall not exceed 3.0 acres. Maximum acreage for Sites 6 and 7 shall not exceed 2.2 acres. (8)

(The following acreages are for information only.)

Site 1 Deleted see Group VII.	.....	(18)
Site 2	1.25 acres	
Site 3	1.765 acres	
Site 4 Deleted.....		(30)
Site 5 Deleted.....		(30)
Site 6	1.50 acres	(8)
Site 7	<u>0.70 acres</u>	(8)
	<u>5.215 acres</u>	<u>5.215 acres</u> (30)

Site 1 Deleted see Group VII Private Club (18)
 Site 2 (4101 Jamboree – Taco Bell) located within Office Site “B” (4)(16)(30)
 Site 3 located within Office Site “F”. (4)
 Site 4 (4300 Von Karman Avenue – Koto Restaurant) deleted and reverted to Site B Professional and Business Office Allowable Building Area. (30)
 Site 5 deleted from Office Site “B” and transferred to Office Site “A” as Professional and Business Office Allowable Building Area (30)
 Sites 6 and 7 located within Office Site “G”. (8)

Any portion or all of the restaurant, bar, theater/nightclub acreage for Sites 2, 4, 5, 6 or 7 not utilized for that purpose shall revert to professional and business office use. Any portion or all of the restaurant acreage for Site 3 not utilized for that purpose shall revert to either professional and business office use or service station use. (4) (8) (18)

The following statistics are for information only. Development may include but shall not be limited to the following.

B. Building Area (4)(8) (30)

Site 2	2,397sq. ft.	.....	0.06 acres	(30)
Site 3	10,000 sq. ft.	.....	0.22 acres	
Site 4	Deleted			
Site 5	Deleted			
Site 6 (8)	7,000 sq. ft.	.....	0.16 acres	
Site 7 (8)	<u>3,000 sq. ft.</u>	.....	<u>0.07 acres</u>	
	<u>22,397 sq. ft.</u>	.....	<u>0.51 acres</u>	.....<u>0.51 acres</u> (8, 18, 30)

C. Parking

Criteria: 300 occupants/10,000 sq. ft.
1 space/3 occupants and 120 cars per acre.

Site 2	24 cars	.....	0.20 acres	(30)
Site 3	100 cars	.....	0.84 acres	
Site 4	Deleted			
Site 5	Deleted			
Site 6 (8) ...	70 cars	.....	0.58 acres	
Site 7 (8) ...	<u>30 cars</u>	.....	<u>0.25 acres</u>	
	<u>224 cars</u>	.....	<u>1.87 acres</u>	.....<u>1.87 acres</u> (8) (18)(30)

D. Landscaped Open Space (4) (30)

Site 2	0.99 acres	(30)
Site 3	0.70 acres	
Site 4	Deleted	
Site 5	Deleted	
Site 6 (8)	0.76 acres	
Site 7 (8)	<u>0.38 acres</u>	
	<u>2.83 acres</u>	.....<u>2.83 acres</u> (8) (18)(30)

E. Building Height

Building height of structures shall be limited to a height of thirty-five (35) feet.

Group VI. RETAIL & SERVICE CENTER

A. Building Site (4) (5)

Site 1 5.026 acres

Site 2 Deleted (30)

5.026 acres 5.026 acres (30)

Site 2 shall be located within Office Site "B." Any portion or all of the retail and service Site 2 acreage not utilized for that purpose shall revert to professional and business office use. (4) (16)

Site 2 deleted from Office Site "B" and transferred to Office Site "A" as Professional and Business Office Allowable Building Area. (30)

B. Allowable Building Area (5)

* Retail Site No. 1 120,000 sq. ft. (14)(27)

Retail Site No. 2 Deleted (30)

* Retail Site No. 1 (sq. Ft.)

Parcel	Existing	Total
Parcel 1, R/S 588	(H)	(H) 70,630
Parcel 3, R/S 506	(R)	(R) 0
	(O)	(O) 22,000
Parcel 4, R/S 506	(R) 4,115	(R) 21,896
	(O) 0	(O) 5,474
Subtotal	(R) 12,315	(R) 21,896
	(O) 0	(O) 27,474
		(H) 70,630
Total		120,000 (14)(27)

(R) = Retail (O) = Office (H) = Hotel

C. Landscape Area (5)

Twenty-five (25) percent of the 5.026 acres constituting retail and service center Site No. 1 shall be developed as landscape area.

If twenty-five (25) percent of the 5.026 acres constituting retail and service center Site No. 1 is not developed as landscape area, a specific site plan shall be submitted to the City of Newport Beach Planning Commission for approval prior to the issuing of a building permit.

D. Statistical Analysis (5)

The following statistics are for information only. Development may include but shall not be limited to the following.

Assumed parking criteria: One (1) space per 200 square feet of net building area at 120 cars per acre.

1. Site 1

Allowable Building Area 120,000 sq. ft. (14)(27)
Site Area 5.026 acres

a. Building Height (14)

Two story development 1.17 acres
Three story development 0.78 acres
Four story development 0.59 acres
Five story development 0.47 acres

b. Parking (14)

460 cars 3.83 acres

c. Landscaped Open Space (14)

Two story development 0.03 acres
Three story development 0.87 acres
Four story development 0.61 acres
Five story development 0.73 acres

2. Site 2 Deleted (30)

E. Building Height

Building height of structures shall be limited to a height of thirty-five (35) feet above mean existing grade as shown on Exhibit "B." (5) Building height of structures for Service Site 1 shall be limited to a height of sixty feet (27)

Group VII. PRIVATE CLUB (18)

A. Building Site

Site 1 2.0 acres 2.0 acres

Site 1 shall be located within Office Site “A.” Any portion or all of the private club acreage not utilized for that purpose shall revert to professional and business office use.

1. Site 1

Allowable Building Area45,000 square feet (26)

B. Building Height

Building height of structures shall be limited to a height of fifty (50) feet.

Section II. Permitted Uses

Group I. PROFESSIONAL AND BUSINESS OFFICES

To allow the location of commercial activities engaged in the sale of products or services relating to and supporting the Development Plan, provided that such activities are confined within a building or buildings.

A. Professional Offices similar in nature to but not limited to the following:
(6)

1. Accountants
2. Attorneys
3. Doctors, dentists, optometrists, oculists, chiropractors and others licensed by the State of California to practice the healing arts.
4. Engineers, architects, surveyors and planners.

B. Business Offices similar in nature to but not limited to the following: (6)

1. Advertising agencies
2. Banks
3. Economic consultants
4. Employment agencies
5. Escrow offices
6. Insurance agencies
7. Laboratories
 - a. Dental
 - b. Medical
 - c. X-Ray
 - d. Bio-chemical
 - e. Film, wholesale only
 - f. Optometrical
8. Stockbrokers

9. Studios for interior decorators, photographers, artists and draftsmen.
10. Telephone answering services
11. Tourist information and travel agencies

C. Hotel and Motel (1)

To allow for the location within Office Site “A” of a hotel or motel development, subject to a use permit.

D. Restaurants, bars and theater/nightclubs subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (1) (3) (4) (7) (25)

1. Deleted (18)

* 2. To allow within the 43.703 acres of Office Site “B” three (3) restaurant, bar or theater/nightclub sites. (16)

3. To allow within the 18.806 acres of Office Site “C” up to two (2) restaurant, bar or theater/nightclub sites with a total area not to exceed 3,250 square feet. Specific location of these restaurants, bars or theater/nightclubs to be determined at a later date. The permitted professional and business offices’ allowable building area for the site will be reduced accordingly. (17)

4. To allow within the 1.765 acres of Office Site “F” two (2) restaurant, bar or theater/nightclub sites. Specific location of these sites to be determined at a later date. All other acreage shall be adjusted and shall not increase or decrease the professional and business offices’ allowable building area for the site.

5. To allow within the 5.317 acres of Office Site “G” three (3) restaurant, bar or theater/nightclub sites. Specific location of these sites to be determined at a later date. All other acreage shall not increase or decrease the professional and business offices’ allowable building area for the site. (8) (25)

* E. Private Club (4) (18) (26)

To allow within Office Site “A” one (1) private club site at 4110 MacArthur Boulevard.

F. Service Station (4)

To allow within Office Site “F” one (1) service station site. Specific location to be determined at a later date. All other acreages shall be adjusted and shall not increase or decrease the professional and business office allowable building area for the site.

* (4) If restaurant, bar or theater/nightclub, or private club uses are developed, the allowable building area for Office Site “B” shall be restricted by one of the following conditions:

1. The 963,849 square feet of allowable building area shall not increase or decrease so long as twenty-five (25) percent of the 41.969 acres constituting Office Site “B” is developed as landscaped area. (16)
2. If twenty-five (25) percent of the 42.709 acres constituting Office Site “B” is not developed as landscape area, the 963,849 square feet of allowable building area shall be reduced by the gross building area of the restaurants, bars or theater/nightclubs and/or private club. The allowable building area shall be further reduced by the number of additional parking spaces required to support a restaurant, bar or theater/nightclub, or a private club beyond what would be required for an equivalent area of office use. The reduction shall be 225 square feet per additional space. (16)

G. Support Commercial (20)

The uses permitted under this section are of a convenience nature ancillary to the operation and use of office facilities. These uses shall be in addition to those sites permitted under Part II. Section II. Group V (Restaurants). These uses shall not increase the allowable building area for Professional and Business Office.

1. Retail sales and services including tobacco stores, card shops, confectionery and newspaper stands, and other uses which, in the opinion of the Planning Director, are of a similar nature. Retail uses shall be located in the basement or on the first floor of a building. Storage for such uses shall be within a building.
2. Restaurants, including outdoor restaurants and take-out restaurants, bars or theater/nightclubs shall be permitted subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (25)

Group II. HOTEL & MOTEL (1)

Subject to a use permit.

Group III. COURT HOUSE

State, County and/or City Facilities.

Group IV. SERVICE STATIONS & MECHANICAL CAR WASH (4)

- A. Service stations subject to the City of Newport Beach service station standards.

- B. Mechanical car wash, subject to a use permit. Mechanical car wash shall only be allowed in conjunction with or in lieu of a permitted service station use.

Group V. RESTAURANTS (7)

- A. Restaurants, including outdoor, drive-in or take-out restaurants, bars and theater/nightclubs, shall be subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. Facilities other than indoor dining establishments or those that qualify as outdoor, drive-in or take-out establishments shall be subject to the City of Newport Beach regulations covering drive-in and outdoor establishments. (25)

Group VI. RETAIL & SERVICE CENTER (1)

A. Permitted Uses

1. Restaurants, including outdoor, drive-in or take-out restaurants, bars and theater/nightclubs, shall be permitted subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case, except as noted under "a" and "b" below. (7) (25)
 - a. Restaurants, other than outdoor, drive-in or take-out restaurants, shall be permitted subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (25)
 - b. Outdoor, drive-in or take-out restaurants shall be subject to the procedures, regulations and guidelines set forth in Title 20 of the Newport Beach Municipal Code, in each case. (25)
2. Barber shop and beauty parlor
3. Book and stationery store
4. Blueprinting and photostatics
5. Camera Shop
6. Delicatessen store
7. Florist
8. Shoe store or repair shop
9. Tailor
10. Tobacco store

11. Office equipment rentable and repair
12. Pharmacies
13. Tourist information, travel agencies, and ticket reservation services, but not to include any airline terminal services or facilities for the transport of passengers, baggage, or freight. (1)
14. Athletic club or health clubs (5)
- * 15. Professional and Business Offices (5)
16. Other uses similar to the above listed
17. Hotel subject to approval of a Use Permit (27)

Group VII. LODGE HALLS, PRIVATE CLUBS, ATHLETIC CLUBS, UNION HEADQUARTERS (1) (4) (18)

Subject to use permit.

Group VIII. AUTO DETAILING (19)

- A. All drainage shall be into the sanitary sewer system.
- B. That all car wash and auto detailing operations shall be conducted within a covered area.
- C. This service shall be designed to serve building tenants and their patrons and guests, and shall be ancillary to the primary use.

Section III. General Development Standards for Commercial Land

A. Site Area

Minimum site area shall not be less than thirty thousand (30,000) square feet. Footprint lots shall have all required appurtenant areas contiguous thereto and the sum of these areas shall not be less than thirty thousand (30,000) square feet. (3)

- * To allow, in addition to the 2,320,600 square feet of professional and business office use permitted elsewhere in the text, a maximum of 38,022 net square feet of professional and business office use within Retail and Service Center Site 1. (5) (14)
Exception: (9)

The Planning Commission may authorize an exception to the minimum site area. Application for any such exception shall be made at the time of the filing of a tentative map by the applicant. In order for an exception to be granted, the Planning Commission shall find the following facts with respect thereto:

1. That the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity.

2. That the Development Considerations and intent of this planned Community Development Standards are substantially met.

B. Building Area

Maximum building area for professional and business offices shall be as noted in Site Area and Building Area, Part II, Section I, Group 1.B. Parking basements or parking structures shall not be calculated as building area; however, said structures shall be used only for the parking of company vehicles, employee vehicles, or vehicles belonging to persons visiting the subject firm. (4)

C. Setbacks

All setbacks shall be measured from the property line. For the purpose of this ordinance, a street side property line is that line created by the ultimate right-of-way of the frontage street.

1. Front Yard Setback (10)

Thirty (30) feet minimum; except that unsupported roofs or sunscreens may project six (6) feet into the setback area. The setback for Site C from MacArthur Boulevard would be at least thirty-six (36) feet except that unsupported roofs or sun-screens any project six (6) feet into the setback.

2. Side Yard

Side yard setbacks will be required only when any one of the following conditions exist:

a. Corner Lot: Thirty (30) feet (street side setback only), except that unsupported roofs and sunscreens may project three (3) feet into setback area.

b. Where property abuts other than commercially zoned property, a ten (10) foot setback is required. Unsupported roofs and sunscreens may project three (3) feet into the setback area.

3. Rear Yard

None required except on a through-lot in which case the required front yard setback shall be observed.

4. Footprint Lots (6)

Except as required by the Uniform Building Code, there shall be no additional setback requirements for buildings within footprint lots. Provided, however, that buildings within footprint lots shall be so located as to observe the setbacks from streets and existing lot lines required under Part II, Section III, C.1, 2 and 3.

D. Loading Areas

1. Street side loading on other than special landscaped streets shall be allowed providing the loading dock is set back a minimum of seventy (70) feet from the street right-of-way line, or one hundred ten (110) feet from the street center line, whichever is greater. Said loading area must be screened from view from adjacent streets.

E. Storage Areas

1. All outdoor storage shall be visually screened from access streets, freeways and adjacent property. Said screening shall form a complete opaque screen up to a point eight (8) feet in vertical height, but need not be opaque above that point.

2. Outdoor storage shall be meant to include all company owned and operated motor vehicles, with the exception of passenger vehicles.

3. No storage shall be permitted between a frontage street and the building line.

F. Refuse Collection Areas

1. All outdoor refuse collection areas shall be visually screened from access streets, freeways and adjacent property. Said screening shall form a complete opaque screen.

2. No refuse collection area shall be permitted between a frontage street and the building line.

G. Telephone and Electrical Service

All "on-site" electrical lines (excluding lines in excess of 12KV) and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view from streets and adjacent properties.

H. Pedestrian Access (1)

It is required of all developments in the commercial areas to submit a plan of pedestrian access to the Planning Department prior to the issuance of building permits. Said plan will detail consideration for pedestrian access to the subject property and to adjacent properties and shall be binding on subsequent development of the property. The plan shall show all interior walkways and all walkways in the public right-of-way, if such walkways are proposed or necessary.

I. Parking

All parking shall be as specified in the General Parking Requirements, Part III.

J. Signs

All signing shall be as specified in the General Sign Requirements, Part IV.

K. Landscape

All landscaping shall be as specified in the General Landscape Requirements, Part V.

PART III. GENERAL PARKING REQUIREMENTS

- Section I A. Adequate off-street parking shall be provided to accommodate all parking needs for the site. The intent is to eliminate the need for any on-street parking.

Required off-street parking shall be provided on the site of the use served, or on a contiguous site, or within three hundred (300) feet of the subject site. Where parking is provided on other than the site concerned, a recorded document shall be approved by the City Attorney and filed with the Building and Planning Departments and signed by the owners of the alternate site stipulating to the permanent reservation of use of the site for said parking.

- B. Parking requirements for specific sites shall be based upon the following parking criteria. All parking shall be determined based upon building type and the area within allotted to the following functions:

1. Business & Professional Offices

One (1) space for each 225 square feet of net floor area. The parking requirement may be lowered to one (1) space for each 250 square feet of net floor area upon review and approval of the modification committee.

Company parking stalls shall not exceed twenty-five (25) percent of the total number of required parking spaces. The number and design of compact parking stalls shall be reviewed and approved by the Planning Director. (11)

Exception: (11)

Parking Requirement for Business and Professional Office Buildings based on Parking Pool. The parking requirements for office buildings within a contiguous office site may be modified in accordance with the following schedule when the net building area or areas served exceeds 100,000 square feet.

- a. For the first 125,000 square feet, parking shall be provided at one space per 250 square feet of net floor area.
- b. For the next 300,000 square feet, parking shall be provided at one space per 300 square feet of net floor area.
- c. Any additional floor area, parking shall be provided at one space per 350 square feet of net floor area.
- d. For pools based on more than 425,000 square feet of net floor area, the Planning Commission may modify the parking formula by use permit, based on a demonstrated formula.

2. Medical & Dental Offices

Five (5) spaces for each doctor or one (1) space for each 200 square feet of gross floor area, whichever is greater.

3. ~~Manufacture, Research and Assembly Deleted. (33)~~

~~Two (2) parking spaces for each three (3) employees, but in no event less than three (3) spaces for each one thousand (1,000) square feet of gross floor area.~~

4. ~~Warehouse Deleted. (33)~~

~~Two (2) parking spaces for each three (3) employees, but in no event less than one (1) space for each one thousand (1,000) square feet of gross floor area for the first twenty thousand (20,000) square feet; one (1) space for each two thousand (2,000) square feet of gross floor area for the second twenty thousand (20,000) square feet; one (1) space for each four thousand (4,000) square feet of gross floor area for areas in excess of the initial forty thousand (40,000) square feet of floor area of the building.~~

~~If there is more than one shift, the number of employees on the largest shift shall be used in determining parking requirements.~~

5. Lodge Halls, Private Clubs, Athletic Clubs, Union Headquarters
(1) (4) (5)

- a. One (1) space for each 75 square feet of gross floor area plus one (1) space for each 250 square feet of gross office floor area.
- b. Specific parking requirements shall be developed for private clubs or athletic clubs based upon functions and occupancies within this use. Parking shall be in conformance to existing City of Newport Beach requirements for said occupancies or at a demonstrated formula agreeable to the Planning Director. (4) In the event that private clubs or athletic clubs are converted to another use, parking requirements for the new use shall be subject to review by the Planning Director. (5)

6. Restaurants, Bars or Theater/Nightclubs, Outdoor, Drive-In and Take-Out Restaurants (7)

- a. Restaurant, bar or theater/nightclub parking shall be in accordance with Title 20 of the Newport Beach Municipal Code, except as noted under "b" and "c" below.

- *
 - b. Restaurants, other than outdoor, drive-in or take-out restaurants, within retail and service centers shall provide one (1) space for each 200 square feet of net floor area and one (1) loading space for each 10,000 square feet of gross floor area, to the extent that the net floor area of all restaurants does not exceed twenty (20) percent of the net floor area of the retail and service center. In the event that any restaurant causes the total of all restaurant uses in the retail and service center to exceed the twenty (20) percent limitation noted above, that entire restaurant and any subsequent restaurants shall provide parking as noted under "a" above.
 - c. Parking for outdoor, drive-in and take-out restaurants shall be provided in accordance with Section 20.53.060 of the Newport Beach Municipal Code.

7. Commercial Retail and Service Center (5)

One (1) space for each 200 square feet of net floor area. One (1) loading space for each 10,000 square feet of gross floor area. Professional and business office parking shall be provided per Part III, Section I.B.1. Athletic or health club parking shall be provided per Part III, Section I.B.5b.

8. Hotels and Motels

One (1) space for each guest unit plus employees' parking on a demonstrated formula. Parking for restaurants, bars, banquet rooms, retail shops or service stores shall be as specified in the above applicable section or on a demonstrated formula acceptable to the Planning Director.

- * Professional and business office net floor area shall be included in this provision. Athletic and health club net floor area shall be excluded from this provision. (5)

9. Court House

Specific parking requirements shall be developed based upon functions and occupancies within this zone. Parking shall be in conformance to existing City of Newport Beach requirements for said occupancies, or at a demonstrated formula agreeable to the Planning Director.

PART IV.

GENERAL SIGN REQUIREMENTS

Section I.

Sign Standards

- A. Signs visible from the exterior of any building may be lighted, but no signs or any other contrivance shall be devised or constructed so as to rotate, gyrate, blink or move in any animated fashion.
- B. Signs shall be restricted to advertising only the person, firm, company or corporation operating the use conducted on the site or the products sold thereon.
- C. A wall sign with the individual letters applied directly shall be measured by a rectangle around the outside of the lettering and/or the pictorial symbol and calculating the area enclosed by such line.
- D. All signs attached to the building shall be surface mounted.

Group I.

PERMANENT IDENTIFICATION SIGNS

A. Ground Signs

Ground signs shall not exceed four (4) feet above grade in vertical height. Also, ground signs in excess of one hundred and fifty (150) square feet in area (double face) shall not be erected in the first twenty (20) feet, as measured from the property line, of any street side setback. Said sign shall not exceed a maximum area of two hundred (200) square feet.

B. Wall Signs

In no event shall an identification sign placed on a wall comprise more than ten (10) percent of the area of the elevation upon which the sign is located. Said signs shall be fixture signs. Signs painted directly on the surface of the wall shall not be permitted.

- 1. The following exceptions apply to industrial zoning only. In the instance of a multiple tenancy building, each individual industry may have a wall sign over the entrance to identify the tenant. Said sign shall give only the name of the company and shall be limited to six (6) inch high letters. Said signs must be oriented toward the parking or pedestrian area for that building and shall not exceed a maximum area of five (5) square feet.
- 2. Fascia mounted identification signs limited to two (2) facades for each building and structure.

No sign shall exceed an area equal to one and one-half (1 1/2) square feet of sign for each one (1) foot of lineal

frontage of the building or store. However, no sign shall exceed two hundred (200) square feet in area per face.

3. The following exceptions apply to Professional and Business Offices and Retail and Service Center uses only. In the instance of a multiple tenancy building, each individual ground floor business may have signing in addition to permitted Building Identification signs. (6)

Each individual ground floor business shall be limited to one (1) sign per frontage not to exceed two (2) signs per business. Said signs shall not be located above the ground floor fascia. No sign shall exceed an area equal to ten (10) percent of the business face upon which it is located. However, no sign shall exceed thirty-five (35) square feet in area. (6).

In no event shall there be more than three (3) permitted ground floor wall signs per building for Professional and Business Offices. (6)

C. Pole Signs

One (1) identification pole sign per site will be allowed for the following commercial businesses only:

- a. Restaurant
- b. Cocktail lounge and/or bar
- c. Hotel

If a pole sign is utilized, it shall be in lieu of other identification signs allowed by ordinance. Pole signs shall be limited to a maximum height of twenty (20) feet and a maximum area of fifty (50) square feet per face, double faced.

Group II.

TEMPORARY IDENTIFICATION SIGNS

- A. The following signs shall conform to all requirements for "Ground Signs," Section I, Group I, Item A with General Sign standards above unless specifically limited below.

1. Sale or Lease Sign

A sign, advertising the sale, lease or hire of the site shall be permitted in addition to the other signs listed in this section. Said sign shall not exceed a maximum area of forty (40) square feet.

2. Construction Sign

One (1) construction sign denoting the architects, engineers, contractor, and other related subjects, shall be permitted upon the commencement of construction. Said sign shall be permitted until such time as a final inspection of the building(s) designates said structure(s) fit for occupancy, or the tenant is occupying said building(s), whichever occurs first. Said sign shall not exceed a maximum area of forty (40) square feet.

3. Future Tenant Identification Sign

A sign listing the name of future tenant, responsible agent or realtor, and identification of the industrial complex shall be permitted. Said sign will be permitted until such time as a final inspection of the building(s) designates said structure(s) fit for occupancy or tenant is occupying said building(s), whichever occurs first. Said sign shall not exceed a maximum area of forty (40) square feet.

4. Directional Signs

Signs used to give directions to traffic or pedestrians or give instructions as to special conditions shall not exceed a total of six (6) square feet (double face) in area and shall be permitted in addition to the other signs in this section.

5. Exceptions

Group II.A.1, 2 and 3: this information may be grouped on a single sign when the aggregate surface area does exceed the summation of the individual areas for each use. This area may be distributed on all surfaces of the sign. This sign may not exceed four (4) feet above grade.

Group III.

SPECIAL PURPOSE SIGNS

A. The following permanent signs shall be permitted.

1. Permanent Directional Sign

Signs used to give directions to traffic or pedestrians as to special conditions shall not exceed a total of six (6) square

feet in area per face, double faced and shall be permitted in addition to other signs permitted in these standards.

2. Community Directional and/or Identification Sign

Permanent directional and identification signs, not exceeding two hundred fifty (250) square feet (per face), shall be permitted but subject to use permit.

Section II.

Sign Area

A. ~~Deleted. (33)Industrial~~

~~The following shall apply to Permitted Uses, Part I, Section II.~~

~~Only one (1) single faced or double faced sign shall be permitted per street frontage. No sign or combination of signs shall exceed one (1) square foot in area for each six hundred (600) square feet of total site area. However, no sign shall exceed two hundred (200) square feet in area per face. An additional twenty (20) square feet shall be allowed for each additional business conducted on the site. Sign limited to two (2) facades.~~

B. ~~Industrial Support Facilities and~~ Business and Professional Offices (33)

The following shall apply to Permitted Uses, Part I, Section III.

No sign shall exceed an area equal to one and one-half (1 1/2) square feet of sign for each one (1) foot of lineal frontage of the building. However, no sign shall exceed two hundred (200) square feet in area per face.

C. Commercial

The following shall apply to Permitted Uses, Part II, Section II, Groups II, III, V and VI.

Building identification shall be limited to a single entity. Building identification signs shall have an area not to exceed one and one-half (1 1/2) square feet of surface for each one (1) foot of lineal frontage of building. However, no sign shall exceed two hundred (200) square feet per face. Building identification signs shall be limited to two (2) facades.

D. Business and Professional Offices

The following shall apply to Permitted Uses, Part II, Section II, Group I.

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Building identification shall be limited to a single entity. Building identification signs shall have an area not to exceed one and one-half (1 1/2) square feet of surface for each one (1) foot of lineal frontage of building. However, no sign shall exceed two hundred (200) square feet per face. Building identification signs shall be limited to two (2) facades.

Section III. Maintenance

All signs indicated in this section shall be maintained in a neat and orderly fashion. Periodic inspection shall be made as directed by the Planning Director, City of Newport Beach or his designated agent.

PART V. GENERAL LANDSCAPE STANDARDS

Section I. General Statement (1)

Detailed landscape and irrigation plans, prepared by a registered Architect or under the direction of a Landscape Architect, shall be submitted to and approved by the Planning Director and the Director of Parks, Beaches and Recreation prior to issuance of a building permit and installed prior to issuance of Certificate of Use and Occupancy. Landscape in the public right-of-way shall be installed per plans and specifications approved by the Parks, Beaches and Recreation Director and in accordance with Parks, Beaches and Recreation Standards.

All landscaping in this section shall be maintained in a neat and orderly fashion. Periodic inspections will be made as directed by the Planning Director and reports submitted with regard to the condition of maintenance. If suggestions of improvement are made, and are in the realm of the Maintenance Standards, the work shall be corrected within thirty (30) days of receipt of the report.

A. Maintenance

1. All planting areas to be kept free of weeds and debris.
2. Lawn and ground covers to be kept trimmed and/or mowed regularly.
3. All plantings to be kept in a healthy and growing condition. Fertilization, cultivation and tree pruning are to be carried out as part of regular maintenance.
4. Irrigation systems are to be kept in working condition. Adjustment and cleaning of system should be a part of regular maintenance.
5. Stakes, guys and ties on trees should be checked regularly for correct function; ties to be adjusted to avoid creating abrasions or girdling to the stems.
6. Damage to plantings created by vandalism, automobile or acts of nature shall be corrected within thirty (30) days.

B.

Front Yard Setback Area

1. General Statement

Landscaping in these areas shall consist of an effective combination of street trees, trees, ground cover and shrubbery. All unpaved areas not utilized for parking shall be landscaped in a similar manner. Full coverage of ground cover to be expected in a minimum of three (3) months.

2. Special Landscaped Street

The entire area between the curb and the building setback line shall be landscaped, except for any driveway in said area. Tree size to be no less than 24-inch box.

3. Other Streets

The entire area between the curb and a point ten (10) feet back in the front property line shall be landscaped except for any driveway in said area. Tree size to be no less than 24 inch box.

C. Side Yard and Rear Yard

1. General Statement

All unpaved areas not utilized for parking and storage, shall be landscaped utilizing ground cover and/or shrub and tree materials.

2. Undeveloped Areas

Undeveloped areas proposed for future expansion shall be maintained in a weed free condition, but need not be landscaped.

3. Screening

Areas used for parking shall be screened from view or have the view interrupted by landscaping and/or fencing from access streets, freeways and adjacent properties. Plant materials used for screening purposes shall consist of lineal or grouped masses of shrubs and/or trees of a sufficient size and height to meet this requirement when initially installed.

4. Boundary Areas

Boundary landscaping is required on all interior property lines. Said areas shall be placed along the entire length of these property lines or be of sufficient length to accommodate the number of required trees. Trees, equal in number to one (1) tree per twenty-five (25) lineal feet of each property line, shall be planted in the above defined areas in addition to required ground cover and shrub material. Minimum width of property line landscaping shall be three (3) feet.

5. All landscaped areas shall be separated from adjacent vehicular areas by a wall or curb, at least six (6) inches higher than the adjacent vehicular area.

D. Parking Areas

Trees, equal in number to one (1) per each five (5) parking stalls, shall be provided in the parking area. Planting area around building shall not be included in parking area. Planting of trees may be in groups and need not necessarily be in regular spacing.

E. Sloped Banks

All sloped banks greater than 5 to 1, or six (6) feet in vertical height and adjacent to public right-of-way shall be stabilized, planted and irrigated with full coverage in accordance with plans submitted and approved by Planning Director.

F. Loading Areas

1. Street side loading on other than special landscaped streets, shall be allowed providing the loading dock is set back a minimum of seventy (70) feet from the street right-of-way line or one hundred ten (110) feet from the street center line, whichever is greater. Said loading area must be screened from view from adjacent streets.

G. Storage Areas

1. All outdoor storage shall be visually screened from access streets, freeways and adjacent property. Said screening shall form a complete opaque screen up to a point eight (8) feet in vertical height but need not be opaque above that point.
2. Outdoor storage shall be meant to include all company owned and operated motor vehicles, with the exception of passenger vehicles.
3. No storage shall be permitted between a frontage street and the building line.

H. Refuse Collection Areas

1. All outdoor refuse collection areas shall be visually screened from access streets, freeways and adjacent property. Said screening shall form a complete opaque screen.
2. No refuse collection area shall be permitted between a frontage street and the building line.
3. Minimum width for landscaping shall be three (3) feet around refuse collection areas.

I. Telephone and Electrical Service

All "on-site" electrical lines (excluding lines in excess of 12 KV) and telephone lines shall be placed underground. Transformer or terminal equipment shall be visually screened from view from streets and adjacent properties, or an approved method of display.

J. Pedestrian Access (1)

It is required of all developments in the commercial areas to submit a plan of pedestrian access to the Community Development Department prior to the issuance of building permits. Said plan will detail consideration for pedestrian access to the subject property and to adjacent properties, and shall be binding on subsequent development of the property. The plan shall show all interior walkways and all walkways in the public right-of-way, if such walkways are proposed or necessary.

K. Landscape Plant Vocabulary (1)

It is the intent of this standard to provide flexibility and diversity in plant selection yet maintain a limited variety to give greater unity to the development. At the direction of the Director of Community Development and the Director of Parks, Beaches and Recreation, material lists and a street tree master plan shall be developed to aid in this development.

All trees occurring in the ten (10) foot setback shall be no less than 24 inch box. The parking lot trees shall be no less than fifteen (15) gallon size.

Shrubs to be planted in containers shall not be less than one (1) gallon size. Ground covers will be planted from one (1) gallon containers or from root cuttings.

Every effort should be made to avoid using plants with invasive and shallow root systems with fruit that would stain paving or automobiles.

- L. Earth berms shall be rounded and natural in character, designed to obscure automobiles and to add interest to the site. In cases where the ratio of width and height of berm creates a bank greater than 3 to 1, shrubs or walls can be used as shown in illustration (b) (c). Wheel stops shall be so placed that damage to trees, irrigation units and shrubs is avoided.
- M. Trees in parking lots should be limited in variety. Selection should be repeated to give continuity. Regular spacing is not required and irregular groupings may add interest. Care should be exercised to allow plants to grow and maintain their ultimate size without restriction.
- N. Storage areas are to be provided with an opaque screen up to a point of eight (8) feet in vertical height. Combination of plantings can be used to further soften hard materials and give continuity to planting.

PART VI.

FOOTNOTES

- (1) Planned Community text revision incorporating Planning Commission revisions and conditions of approval.
- (2) Planned Community Text revision incorporating City Council conditions of approval as adopted by the city of Newport Beach. (Amendment No. 313, adopted August 14, 1972).
- (3) Planned Community Text revision July 6, 1973 incorporating the addition of footprint lots and the addition of two (2) restaurant sites within Office Site "A". (Amendment No. 381, adopted August 2, 1973).
- (4) Planned Community Text revision (Amendment No. 420, adopted February 7, 1974) incorporating the following changes:
 - a. Revised Planned Community Text site acreage figures to conform to the recorded tract map.
 - b. Revised Exhibit "A" (land use map) to conform to recorded tract map.
 - c. Changed the size of Office Site "E" and created one parcel of land comprised of Restaurant Site No. 3, Service Station Site No. 3 and the residual of Office Site "C". This new site is designated as Office Site "F".
 - d. Revised Retail and Service Site No. 2 from a specific location to a floating location within Office Site "A".
 - e. Added mechanical car wash subject to a use permit as a permitted use on the service station sites.
 - f. Added private clubs or athletic clubs as a permitted use on Office Site "B".
 - g. Made provisions for three (3) additional restaurant sites, two sites within Office Site "B" and one site within Office Site "F".
- (5) Planned Community Text revision (Amendment No. 430, adopted June 10, 1974) incorporating the following changes:
 - a. Eliminated Service Station Site No. 2.
 - b. Added health or athletic club as a permitted use within the Retail and Service Center sites.
 - c. Added Professional and Business Office as a permitted use within the Retail and Service Center sites.
 - d. Added a minimum twenty-five (25) percent landscape requirements or site plan approval by the Planning commission to the development requirements of retail Site No. 1.
- (6) Planned Community Text revision (Amendment No. 444, adopted May 15, 1975) incorporating the following changes:
 - a. Clarified the setback requirements for buildings within footprint lots.
 - b. Clarified Professional and Business Office permitted uses.
 - c. Added signing provision for ground floor businesses in multi-tenant building.

- (7) Planned Community Text revision (Amendment No. 451, adopted September 8, 1975) incorporating the following changes:
 - a. Added the requirement that all restaurants shall be subject to the securing of a use permit with the exception of certain restaurant uses within Retail and Service Centers.
- (8) Planned Community Text revision (Amendment No. 466, adopted June 28, 1976) incorporating the following changes:
 - a. Changed the size of Light Industrial Site No. 2.
 - b. Created Professional and Business Office Site "G".
 - c. Made provisions for two (2) restaurant sites within Office Site "G".
 - d. Reduced the allowable building area of Office Site "D".
 - e. Amended the construction timetable for traffic signals.
- (9) Planned community Text revision (Amendment No. 475, adopted January 10, 1977) incorporating the following changes:
 - a. Established guidelines for an exception to the minimum site area.
- (10) Planned Community Text revision (Amendment No. 505, adopted July 11, 1978) incorporating the following changes:
 - a. Increased the site area of Professional and Business Office Site "C".
 - b. Increased the allowable building area of Professional and Business Office Site "C".
- (11) Planned Community Text revision (Amendment No. 508, adopted August 28, 1978) incorporating the following changes:
 - a. Made provision for consideration of additional left turn ingress from MacArthur Boulevard.
 - b. Eliminated Service Station Site No. 1 and added the land area to Professional and Business Office Site "B".
 - c. Reviewed the parking requirement for office buildings within Professional and Business Office sites.
- (12) Planned Community Text revision (Amendment No. 514, adopted October 19, 1978) incorporating the following changes:
 - a. Established existing and additional allowable development as of October 1, 1978.
 - b. Established the requirement and criteria for phasing plan approval of development beyond thirty (30) percent of the additional
- (13) Planned Community text revision incorporating the transfer to allowable building area from Professional and business Office Site "D: to Professional and Business Office Site "B". (Amendment No. 550, adopted November 10, 1980).

- (14) Planned Community Text revision for Retail and Service Site No. 1, which allocates existing and permitted development. (Amendment No. 558 adopted March 23, 1981).
- (15) Planned community Text revision increasing the allowable building area in Site C (MacArthur Court). (Amendment No. 593, adopted October 24, 1983).
- (16) Planned Community Text revision incorporating the transfer of allowable office, restaurant and retail building area from Professional and Business Office Site “A” to Professional and Business Office Site “B”. (Amendment No. 606, adopted May 14, 1984).
- (17) Planned Community Text revision to allow up to two restaurants with a total floor area not to exceed 3,250 square feet within “Office Site C”. (Amendment No. 626, adopted December 9, 1985).
- (18) Planned Community Text revision deleting restaurant Site 1 and substituting a private club with a total floor area not to exceed 30,000 square feet within Office Site “A”. (Amendment No. 635, adopted July 14, 1986).
- (19) Planned Community Text revision to allow auto detailing as a permitted use. (Amendment No. 647, adopted March 23, 1987).
- (20) Planned Community Text revision adding support commercial uses to the permitted uses under Professional and Business Office permitted uses. (Amendment No. 649, adopted July 27, 1987).
- (21) Planned Community text revision combining Light Industrial Sites 1 and 2 into Light Industrial Site 1, increasing the allowable building area for the combined site by 39,000 square feet, and increasing the permitted building height from 35 feet to 55 feet. (Amendment No. 677, adopted June 12, 1989).
- (22) Planned Community Text revision increasing the permitted building height in Light Industrial Site 1 from 55 feet to 75 feet. (Amendment No. 799, adopted April 25, 1994).
- (23) Title 20 amendment to reinstate notice and appeal procedures for specialty food service applications. (Amendment No. 829, adopted September 11, 1995, Ordinance 95-39)
- (24) Planned Community Text revision to increase the permitted height within “Light Industrial Site 1” from 75 feet to 90 feet for a single vertical column. (Amendment No. 867, adopted February 23, 1998, Ordinance 98-3).
- (25) Planned Community Text revisions (Amendment No. 876, adopted August 10, 1998, Ordinance 98-20) to allow the following changes:
 - a. Additional restaurant uses in Office Site “G” (the current limited of two restaurants will be increased to three restaurant sites), and;
 - b. Permit eating and drinking establishments throughout the Koll Center Planned Community as per Title 20 of the Municipal Code.

- (26) Planned Community Text revisions (Amendment No. 890, adopted 01/11/2000, Ordinance 99-28) to allow the following changes:
- a. Increase the permitted level of development for Office Site A by 15,000 square feet (4110 MacArthur Boulevard) and;
 - b. Establish the permitted level of development for Koll Center Newport Office Site A at 418,346 gross square feet.
- (27) Planned Community Text revisions (Amendment No. 897, adopted January 25, 2000, Ordinance 2000-3) to allow the following changes:
- a. Designate Parcel 1 of Koll Center Newport Retail and Service Site 1 for Hotel Use, and;
 - b. Establish the permitted Gross Floor Area for Koll Center Newport Retail and Service Site 1 at 120,000 square feet, and
 - c. Establish the permitted height for the site at 60 feet.
- (28) Planned Community Text revisions (Ordinance No. 2005-014, adopted August 9, 2005) to allow the following changes:
- a. Office expansion of 1,367 net square feet in the Koll Center Office Site B at 4200 Von Karman Avenue.
- (29) Planned Community Text revisions (Ordinance No. 2006-19), adopted July 25, 2006 to allow the following changes:
- a. To increase the development allocation for Professional and Business Offices of Site A by 2,129 net square feet. (PA2005-293)
- (30) Planned Community Text revisions (Ordinance No. 2006-21), adopted October 24, 2006 to allow the following changes:
- a. To allow the transfer of 24,016 gross square feet of unused retail, restaurant and office square footage from Office Site B to Office Site A resulting in the elimination of the entire Retail Site #1, an undeveloped portion of Restaurant Site #2 and the entire Restaurant Site #5.
- (31) Planned Community Text revisions (Ordinance No. 2011-3), adopted January 25, 2011 to allow the following changes:
- a. To allow building area for Professional & Business Site F to increase by 18,346 net square feet.
- (32) Planned Community Text revisions (Ordinance No. 2011-8), adopted March 8, 2011 to allow the following changes:
- a. To allow an increase to the Allowable Building Area for Professional & Business Site B by 9,917 net square feet

(33) Planned Community Text revisions (Ordinance No. 2013-), adopted
, 2013 to allow the following changes:

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- a. To delete Light Industrial Sites 1 and 2 from PC-11.
- b. To delete Part I. Industrial uses in its entirety as an allowed use.
- c. To revise the total acreage within PC-11 to 154.0 acres to reflect the deletion
of Light Industrial Sites 1 and 2 from PC-11.
- d. To update the Composite exhibit and Exhibits A through E to reflect the
deletion of Light Industrial Sites 1 and 2 from PC-11.

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Insert exhibits:

Composite..... For Information Only (33)
Exhibit A Land Use (33)
Exhibit B..... Grading and Roads (33)
Exhibit C..... Storm Drain (33)
Exhibit D Water & Sewer (33)
Exhibit E..... Boundary and Topography (33)

EXHIBIT E

PLANNED COMMUNITY DEVELOPMENT PLAN ADOPTION PC2012-001

Consists of:

- Draft Uptown Newport Planned Community Development Plan dated November 29, 2012, which consists of the followings:
 1. Land Use Development Standards & Procedures
 2. Design Guidelines
 3. Phasing Plan

Exhibit E is available for review at the Planning Division of Community Development Department or at <http://newportbeachca.gov/index.aspx?page=2029>

EXHIBIT F
REQUIRED FINDINGS

TENTATIVE TRACT MAP NO. NT2012-002

In accordance with NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps), the following findings and facts in support of such findings are set forth:

Finding:

A. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.

Facts in Support of Finding:

- A-1. The Tentative Tract Map provides lot configurations consistent with the land uses, densities and intensities of the proposed PCDP, the General Plan Land Use designation of Mixed-Use Horizontal-2 (MU-H2) and the Airport Business Area Integrated Conceptual Development Plan (ICDP). MU-H2 provides for horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings and ancillary neighborhood commercial uses. Additionally, the ICDP allocates up to 1,244 residential units and 11,500 square feet of retail to be developed on the Property. Under the proposed Project, 632 units would be developed as replacement units for redevelopment of the existing industrial uses, 290 additive units would be allocated to the proposed Project in accordance with the City's General Plan and the ICDP and 322 density bonus units would be authorized pursuant to NBMC Chapter 20.32 (Density Bonus), for a total of 1,244 residential units. The proposed residential community also includes 11,500 square feet allocated for neighborhood commercial uses and is therefore consistent with the intent of General Plan and ICDP.
- A-2. General Plan goal LU 2.1 seeks to accommodate uses that support the needs of City residents including housing, retail, services, employment and recreation. The Tentative Tract Map allows the development of a residential community, containing a mix of housing types, supporting retail and active parklands, consistent with the proposed PCDP, General Plan designation and ICDP, which encourage the development of coordinated, cohesive mixed use projects in the Airport Area.
- A-3. The Tentative Tract Map provides for the development of a cohesive planned community with a pattern of streets and blocks that provide a pedestrian-friendly environment, with strong connectivity to adjacent commercial and office areas. A network of paseos, open space and pedestrian walkways would be introduced into the community to serve as connections between Project neighborhoods and provide linkages to surrounding areas. Two one acre parks, as well as recreational open space amenities, are proposed.

- A-4. The streets on the proposed Tentative Tract Map are consistent with the roadway specifications of the Master Plan of Streets and Highways of the Circulation Element of the General Plan. Traffic control measures are also included with the Uptown Newport Planned Community to ensure proposed private roadways and City roadways function as intended.
- A-5. The Tentative Tract Map provides for the dedication of at least 8 percent of the gross land area (exclusive of existing rights-of-way), or 2.0 acres of neighborhood parks. Phase 1 would include the dedication (the general public would have access to the park during daytime hours) and improvement of a neighborhood park with a minimum area of 1.3 acre and a minimum dimension of 150 feet. Phase 2 would include the dedication and improvement of a neighborhood park with a minimum area of 1.02 acre and a minimum dimension of 150 feet.

Finding:

B. That the site is physically suitable for the type and density of development.

Facts in Support of Finding:

- B-1. Overall site topography can be characterized as relatively flat.
- B-2. There are no known faults on or immediately adjacent to the Property.
- B-3. There are no geologic or physical constraints that would prevent the development of the site at the density proposed, or require variances or deviations from the applicable City development standards.

Finding:

C. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Facts in Support of Finding:

- C-1. No drainages traverse the Property and no potential jurisdictional waters or wetlands areas are present on or immediately adjacent to the site.
- C-2. No sensitive habitats, plant species or animal species were observed onsite during the preparation of the EIR for the Project.
- C-3. The DEIR prepared for the Project concluded that without mitigation one impact could be potentially significant: the Project would remove vegetation that could be used for

nesting by migratory birds. However, the DEIR concluded that the impact would be less than significant after mitigation.

- C-4. On the basis of the entire environmental review record, the proposed Project will have a less than significant impact upon the environment with the incorporation of mitigation measures, with the exception of the following significant and unavoidable impacts:
- B. Air Quality – Short term construction-related emission for Phases 1 and 2 of the project
 - C. Land Use - A determination of inconsistency with the John Wayne Airport Environs Land Use Plan (AELUP) by the Airport Land Use Commission (ALUC)
 - D. Noise - Construction-related noise impacts for Phase 1 and Phase 2 of the project
- C-5. The mitigation measures identified in the DEIR are feasible and reduce potential environmental impacts to a less than significant level, with the exception of those impacts identified above. The mitigation measures would be applied to the Project through the Mitigation, Monitoring and Reporting Program.

Finding:

D. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Facts in Support of Finding:

- D-1. There are no known faults on or immediately adjacent to the Property.
- D-2. The Project is conditioned to comply with all Building, Public Works and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the Applicant per Section 19.28.010 of the Municipal Code and Section 66411 of the Subdivision Map Act.
- D-3. The Project's Phase 1 would generate an increase in Green House Gas ("GHG") emissions onsite but would not exceed the proposed South Coast Air Quality Management District per capita significance thresholds. At full build-out the Project would result in a net decrease in GHG emissions.
- D-4. Mitigation measures identified in the DEIR reduce potential impacts associated with hazards and hazardous materials to less than significant. No significant unavoidable adverse impacts relating to hazards were identified in the DEIR.
- D-5. While the north and northwest portions of the Property have soil and groundwater impacted by volatile organic compounds, the areas have been the primary focus of historical and ongoing soil and groundwater investigation and remediation activities conducted under the oversight of the Regional Water Quality Control Board.

- D-6. No residential uses are allowed without first providing regulatory signoff from RWQB. Additionally residential uses will be setback a minimum of 200 feet from any hazardous materials as stated in Mitigation Measure 7-2 of the DEIR.

Finding:

E. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.

Facts in Support of Finding:

- E-1. The Property contains existing public utilities easements that serve existing development that will be removed over time. The design of the subdivision and the type of improvements proposed present no conflict with these easements. Existing easements will remain in their current designated locations or will be modified to be substantially equivalent to ones previously acquired by the public.

Finding:

F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.

Facts in Support of Finding:

- F-1. The Property does not contain prime farmland, unique farmland, or farmland of statewide importance and no portion of the Project site is covered by a Williamson Act contract.

Finding:

G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.

Facts in Support of Finding:

- G-1. The Property is not located in a specific plan area.

Finding:

H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.

Facts in Support of Finding:

H-1. The proposed Tentative Tract Map and improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Community Development Department enforces Title 24 compliance through the plan check and inspection process.

Finding:

I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.

Facts in Support of Finding:

I-1. Of the total 1,244 residential units in the Project, between 102 and up to 369 units would be set aside for affordable housing depending upon the target income group being served. Affordable housing obligations will be met through the construction of on-site affordable housing consistent with an approved Affordable Housing Implementation Plan (AHIP).

Finding:

J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.

Facts in Support of Finding:

J-1. There is adequate sewer system capacity to serve the requirements of the proposed Project. The Project's PCDP and phasing plan ensure adequate utility infrastructure is provided per phase. The proposed Project would be able to tie into the existing sewer system without adversely affecting the system or causing any water quality affects or violating existing requirements prescribed by the Regional Water Quality Control Board. Wastewater from the project will be generated by residential and retail commercial uses and at full buildout; there will be a significant reduction in wastewater with the elimination of the existing semi-conductor manufacturing plant.

Finding:

K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.

Facts in Support of Finding:

K-1. The Project site is not located within the Coastal Zone.

EXHIBIT G
CONDITIONS OF APPROVAL

TENTATIVE TRACT MAP NO. NT2012-002

Note:

The following is a list of acronyms used in the Conditions of Approval for Tentative Tract Map No. 17438:

- *DA – Development Agreement No. DA2012-003.*
- *EIR No. ER2012-001- Uptown Newport Environmental Impact Report, State Clearinghouse Number 2010051094.*
- *MM – Mitigation Measure, project specific measures recommended by the DEIR and adopted as part of the approval of the project to reduce potentially significant environmental effects to a level considered less than significant and stated at the end of a condition as a reference between the condition and a mitigation measure recommended in the DEIR.*
- *MMRP – Mitigation Monitoring and Reporting Program, the monitoring and reporting procedures for the Mitigation Measures identified in the EIR and adopted as part of project approval pursuant to Section 21081.6(a)(1) of the California Environmental Quality Act.*
- *NBMC – Newport Beach Municipal Code.*

General Conditions

1. City Council approval of Tentative Tract Map No. 17438 is in conjunction with its approval of Development Agreement No. DA2012-003 for the same project (the “DA”). Pursuant to Sections 2.2 and 2.4 of the DA and the terms used therein that are defined in Section 1 of the DA, the “Term” of the DA becomes effective on the “Effective Date” of the DA. Tentative Tract Map No. 17438 and the DA comprise parts of a single integrated action and are not severable from one another. Accordingly, notwithstanding any other provision set forth in Tentative Tract Map No. 17438 to the contrary, in no event shall the owner, lessee, or other occupant or any person or entity holding any interest in the subject property acquire any right to develop or use the subject property as authorized or provided herein unless and until the Effective Date in the DA occurs and the Term of the DA commences. In the event the DA is terminated for any reason before the Effective Date of the DA occurs, including without limitation as a result of the mutual termination of the DA by the Parties thereto, the occurrence of an uncured material default under the DA by either Party and a termination of the DA by the non-defaulting Party, or the failure of the Effective Date of the DA to occur prior to the deadline set forth in the DA, as said deadline may be extended by mutual agreement of the Parties to the DA, then in such event Tentative Tract Map No. 17438 automatically shall become null and void and of no further force or effect, without any need or requirement for the City to schedule any public hearings or take any affirmative action or actions to revoke or rescind the same.
2. Notwithstanding any provision expressly or impliedly to the contrary, in the event of any conflict or inconsistency between any of the terms or conditions of Tentative Tract

Map No. 17438 and the DA, the terms and conditions of the DA shall control. In the event of any conflict or inconsistency between or among the conditions of Tentative Tract Map No. 17438, the Director of Community Development shall determine the controlling condition.

3. The applicant shall comply with all applicable provisions of NBMC Chapter 19.40, General Dedication Requirements.
4. The applicant shall comply with all applicable provisions of NBMC Chapter 15.38, Fair Share Traffic Contribution Ordinance, and Chapter 15.42, Major Thoroughfare and Bridge Fee Program. Fair Share and Transportation Corridor Agency fees shall be paid prior to the issuance of building permits.
5. The applicant shall comply with all applicable provisions of NBMC Chapter 15.40, Traffic Phasing Ordinance (TPO).
6. Tentative Tract Map No. 17438 shall expire 24 months from the date of approval pursuant to NBMC Chapter 19.16.010, unless an extension is otherwise granted by the City for the period of time provided for in the Development Agreement pursuant to the provisions of California Government Code Section 66452.6(a).
7. The development of the project is subject to compliance with all applicable submittals approved by the City and all applicable City ordinances, policies, and standards, subject to modification by these Conditions of Approval.
8. Development of the project shall comply with the requirements of the Uptown Newport Planned Community Development Plan and be in substantial conformance with the approved Tentative Tract Map No. 17438 dated November 28, 2012, except as modified by applicable conditions of approval and the DA.
9. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the City's approval of the Uptown Newport project including, but not limited to, the approval of the Tentative Tract Map No. 17438, Uptown Newport Planned Community Development Plan No. PC 2012-001, Planned Community Development Plan Amendment No. PD2011-003, Traffic Study No. TS2012-005, Affordable Housing Implementation Plan No. AH2012-001, Development Agreement No. DA2012-003, and/or the City's related California Environmental Quality Act determinations, the certification of the Final Environmental Impact Report No. ER2012-001 (SCH#2010051094), and the adoption of a Mitigation Monitoring and Reporting Program, and/or statement of overriding considerations adopted for the project. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other

expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand, from time to time, any amount owed to the City pursuant to the indemnification requirements prescribed in this condition. The provisions herein shall not apply to the extent such damage, liability or claim is caused by the willful misconduct or sole active negligence of the City or the City's officers, officials, agents, employees, or representatives.

10. The applicant shall comply with all project design features, mitigation measures, and standard conditions contained within the approved MMRP of EIR SCH No. 2010051094 for the project.
11. The applicant shall have the sole obligation to fund or arrange funding for the planning, design, engineering, construction, supervision, inspection and all other costs associated with the site development, including construction of the two neighborhood parks, paseos, pedestrian sidewalks, Class 1 bike trail along the project frontage along Jamboree Road, and all public and private infrastructure, as further described in subsequent conditions of approval, including but not limited to; streets, landscaped parkways, water and sewer facilities, storm drains, and dry utilities to serve residential and commercial development as identified in the Uptown Newport Planned Community Development Plan.
12. New development within the project site shall be subject to the state-mandated school fees and Santa Ana Unified School District Measure G and C general obligation taxes based upon assessed value of the residential and commercial uses.
13. The project shall provide parkland and in-lieu fees in an amount consistent with General Plan Policy LU6.15.13 and the Newport Beach Subdivision Code.
 - a. In accordance with Subdivision Code, the total Parkland Dedication Requirement is 13.62 acres. This total acreage is based upon the parkland dedication standard of 5 acres per 1,000 people established by Section 19.52.040, a total of 1,244 units authorized, and a 2010 Census population standard of 2.19 persons per household.
 - b. A total of 2.05 acres of parkland shall be dedicated to the City consistent with General Plan Policy LU6.15.13. The timing of dedication shall be consistent with Section 19.52.090 of the Subdivision Code.
 - c. The proposed public park in Phase 1 shall be included in the first final map in Phase 1 and the proposed public park in Phase 2 shall be included in the first final map in Phase 2.

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- d. The residual parkland dedication requirement of 11.57 acres shall be satisfied by the payment of fees in-lieu of dedication in accordance with the Development Agreement.
14. The project shall provide parkland and in-lieu fees in an amount consistent with the General Plan Policy LU6.15.13 and Newport Beach Subdivision Code as identified in the DA.
15. Section 3.3 and Section 6.3 of the Phase Plan shall be amended to include the following provisions: The existing emergency vehicle access to and from the Koll Center property in Phase 1 as depicted in Figure 3-5 and Figure 6-5 shall be preserved in perpetuity. This connection through Koll Center Newport to Von Karman Avenue may be expanded to allow for public access for pedestrians, bicycles, and vehicles in the future.
16. In accordance with California Fire Code Section 2704.1.1 Amendment, no person shall use or store any amount of extremely hazardous substances equal to or greater than the disclosable amounts as listed in Appendix A, part 355, Title 40 of the Code of Federal Regulation in a residential zone or adjacent to property developed with residential uses.
17. In accordance with California Fire Code Section 903.2.8, an automatic sprinkler system installed in accordance with California Fire Code Section 903.3 shall be provided throughout all buildings.
18. In accordance with California Fire Code Section 907.2.9, a manual fire alarm system that activates the occupant notification system shall be provided when any dwelling unit or sleeping unit is located three or more stories above the lowest level of exit discharge, or the building contains more than 16 dwelling or sleeping units.
19. In accordance with California Fire Code Section 906.1, 2A 10BC type fire extinguishers shall be required and installed on each floor or level. Travel distance to an extinguisher shall not exceed 75 feet from any point in a building. Parking garages shall be required to have a 2A 20BC located every 50 feet.
20. In accordance with California Fire Code Section 907.2.11.2, smoke alarms shall be installed and maintained on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms, in each room used for sleeping purposes, and in each story within a dwelling unit. The smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Smoke alarms shall receive their primary power from the building wiring and shall be equipped with a battery backup.
21. The applicant shall provide required fire flow in accordance with Newport Beach Fire Department Guideline B.01 "Determination of Required Fire Flow".

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22. Fire hydrants shall be provided, located and, installed as per California Fire Code and Newport Beach Fire Department Guideline F.04.
 23. Fire apparatus access roads shall be provided as per Newport Beach Fire Department Guideline C.01. The fire apparatus road shall extend to within 150 feet of all development, facilities, and all portions of the exterior walls of the first story of the building. Minimum width of a fire access roadway shall be 20 feet, no vehicle parking allowed. The width shall be increased to 26 feet within 30 feet of a hydrant, no vehicle parking allowed. Parking on one side is permitted on 28-foot wide streets. Parking on two sides permitted on 36-foot wide streets. No parking is permitted on streets narrower than 28 feet in width. Access roads shall have an unobstructed vertical clearance of not less than 13 feet 6 inches.
 24. The inside turning radius for an access road shall be 20 feet or greater. The outside turning radius shall be a minimum of 40 feet (without parking.) Cul-de-sacs with center obstruction shall require a larger turning radius as approved by the Newport Beach Fire Department.
 25. Fire lane signage shall be provided as per Newport Beach Fire Department Guideline C-02.
 26. In accordance with California Fire Code Section 510.1 Amendment, emergency responder radio coverage shall be provided in buildings or structures that has more than three stories above grade plane or any building or structure, regardless of the number of stories, in which any single floor space exceeds 45,000 square feet, or any building or structure containing a subterranean space of 250 square feet or more, or any building or structure deemed likely to have diminished in-building communications. The emergency responder radio coverage shall comply with the Newport Beach Fire Department Guideline D.05 "Public Safety Radio System Coverage".
 27. In accordance with California Fire Code Section 905.3, standpipes shall be provided to all buildings where the floor level of the highest story is located more than 30 feet above the lowest level of Fire Department vehicle access, or buildings where the floor level of the lowest story is located more than 30 feet below the highest level of Fire Department vehicle access, or building that are two or more stories below the highest level of Fire Department vehicle access.
 28. An encroachment permit is required for all work activities within the public right-of-way.
 29. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
 30. In case of damage done to public improvements surrounding the development site by the private construction, said damage shall be repaired and/or additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

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31. All on-site drainage shall comply with the latest City Water Quality requirements.
 32. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed unless approved in conjunction with an encroachment permit or encroachment agreement.
 33. Internal roadways shall comply with Council Policy L-4:
 - a. 36 feet wide curb to curb with Parking on both sides
 - b. 32 feet wide curb to curb without Parking or parking on one side
 34. Lots E, F, G, H, I, J, K, L, U and R shall include a pedestrian and bicycle easement. The existing meandering sidewalk within the easement area shall be reconstructed consistent with City standard designs to provide a minimum 12-foot wide public sidewalk and bike path.
 35. Any modifications to the easterly half of Jamboree Road, including but not limited to striping and median reconstruction requires approval from the City of Irvine.
 36. Uptown Newport Sewer connections to private sewer located on Koll Site:
 - a. If there are existing easements and rights established between the two properties, please note on the plans the easement recordation number for reference.
 - b. Otherwise, Uptown Newport project is required to obtain a letter from Koll Site authorizing the new connections to the private sewer.
 37. The applicant shall obtain a Private Sewer Easement from adjacent property for the proposed sewer main which discharges towards Birch Street. If water or other utilities are proposed to be routed through this same area, the applicant shall obtain a Private Utilities Easement, instead.
 38. Two new City of Newport Beach manholes are required on Birch Street for the proposed sewer main if constructed:
 - a. One manhole per STD-401-L to be installed adjacent to the property line.
 - b. One manhole per STD-401-L to be installed on the main where it tie-in with the existing City sewer line in Birch Street.

Prior to Final Map Approval

Note: Multiple final Tract maps may be prepared by the applicant and submitted for approval by the City.

39. Prior to Final Map approval the applicant shall obtain written verification of the availability of sufficient water supply from the Irvine Ranch Water District consistent with the requirements of Section 66473.7 (b) of the Subdivision Map Act.
40. Prior to Final Map approval, the applicant shall submit for review by the Director of Community Development and shall obtain City Attorney approval of Covenants, Conditions and Restrictions (CC&Rs) prepared by an authorized professional and which generally provide for the following:
- a. Creation of a Master Association, and/or Sub-associations, for the purpose of providing for control over and maintenance of the two neighborhood parks and common area improvements, which include, but are not limited, to the followings unless otherwise approved by the Director of Public Works: Jamboree Road parkway landscaping, internal project streets, sidewalks, neighborhood parks, common landscape areas and irrigation; paseos and parkways/greenbelts; community walls and fencing; slopes; sewer laterals, and water laterals.
 - b. A statement that all internal streets, sidewalks, common landscape areas, paseos, parkways/greenbelts, walls and fencing within the the tract, sewer and water laterals, are private and shall be maintained by the Master Association, or Sub-Association(s) unless otherwise approved by the Director of Public Works.
 - c. A statement that all homeowners and residents will be provided, upon purchase closing or signing of rental agreement, the information and requirements for water conservation pursuant to NBMC Chapter 14.16, Water Conservation and Supply Level Regulations.
 - d. A statement that the Master Association shall be required to advise residents that complaints about offensive odors may be reported to the City using online tools on the City web site and/or to the South Coast Air Quality Management District at 1-800-CUT-SMOG (1-800-288-7664).
 - e. A statement that all appropriate written notifications shall be provided to all initial and subsequent buyers, lessees, and renters within Uptown Newport project notifying them that the area is subject to noise from existing land uses, traffic on Jamboree Road, and construction of buildings within the project, and as a result residents and occupants of buildings may experience inconvenience, annoyance or discomfort arising from noise within the project.
 - f. A statement that the neighborhood parks within Uptown Newport project shall have posted a notification to users regarding proximity to John Wayne Airport and related aircraft and noise.
 - g. A statement that all appropriate written notifications shall be provided to all initial and subsequent buyers, lessees, and renters within Uptown Newport

project notifying them that the area is in the vicinity of John Wayne Airport and as a result residents and occupants of buildings may experience inconvenience, annoyance or discomfort arising from the noise resulting from aircraft operating at the airport.

- h. Information to be provided to future residents that uses and structures are subject to the requirements of the approved Uptown Newport Planned Community Development Plan.
 - i. Lots O and M as shown on Tentative Tract Map 17438 shall be offered for dedication to the City of Newport Beach as a public park in perpetuity and maintained by a Master Association, a Sub-Association and/or other approved and appropriate agency, and that no structures, development or encroachment shall be permitted within the designated park area except as shown on the Final Map, approved Site Development Review, approved landscape and park improvement plans, or as otherwise approved by the City.
 - j. Provisions that following recordation of each Final Map, each Association formed for the subdivision shall submit to the Community Development Director a list of all current Officers of the Association.
 - k. A statement indicating that proposed amendments to the CC&Rs shall be submitted for review to the Community Development Director or designee, and shall be approved by the City Attorney prior to the amendments being valid.
 - l. A statement that the City has the right, but not the obligation, to enforce any of the provisions of the CC&Rs.
 - m. An agreement between the applicant and the Association that on an annual basis by June 1 of each year reports will be furnished to the Public Works Director in compliance with the reporting requirements of codes and ordinances adopted by the City with respect to the NPDES program.
41. Prior to any Final Map approval, the applicant shall reflect on the Final Map or prepare separate instruments to the satisfaction of the Public Works Director all public access easements, deed restrictions or other instruments including but not limited to those providing for permanent public access to the neighborhood parks, common open space areas, paseos, internal streets and walkways and those providing City access for maintenance of storm drains or any public infrastructure.
42. Prior to any Final Map approval, the applicant shall submit a park and open space management plan for approval by the Director of Community Development, for the long term funding and management of Lots E through BB on Tentative Tract Map 17438 that contain neighborhood parks, paseos, common open space areas, and streets within Uptown Newport Planned Community Development Plan. The park and open space management plan shall identify all entities responsible for ownership, management and maintenance of these areas and their credentials which qualify the

entity as capable of management and maintenance of these areas and able to implement all applicable mitigation measures identified in the MMRP. The park and open space management plan shall specify the timeline for commencement of implementation of the management plan by the management entity for these areas. Approval by the City of the long term management plan is a condition precedent to recordation of a final map. The park and open space management plan shall include but not be limited to identification of funding, management responsibilities, and maintenance activities in perpetuity for the neighborhood parks, paseos, common open space areas, and streets within Uptown Newport Planned Community Development Plan.

43. Prior to any Final Map approval, the applicant shall pay all applicable development and Final Map fees associated with but not limited to Community Development Department, Public Works Department, and City Attorney review of CC&Rs, map and plan check, hydrology review, geotechnical and soils reports review, park improvement plan review, grading plan review, traffic and transportation, and construction inspection.
44. Prior to any Final Map approval, the applicant shall submit to the Community Development Director for review and shall obtain City Attorney approval of, a buyer's notification disclosure form, to be given to all buyers and residents upon purchase closing, which indicates the location, if applicable, notification of potential exposure to soil and groundwater contamination, nuisances, noise, risk of upset and hazards, and/or objectionable odors of continued TowerJazz operation.
45. Prior to any Final Map approval, the applicant shall provide separate labor and material improvement bonds or irrevocable letters of credit in a form and amount acceptable to the Director of Public Works for 100% of estimated improvement cost, as prepared by a Registered Civil Engineer and approved by the Director of Public Works, for each of the following, but not limited to, public and private improvements separately:

Street improvements, monuments, sidewalks, striping and signage, neighborhood park improvements, street lights, sewer systems, water systems, storm drain and water quality management systems, erosion control, landscaping and irrigation in public rights of way, common open space areas accessible by the public, and off-site improvements required as part of the project.

Prior to Recordation of Final Map

Note: Multiple Final Maps may be prepared by the applicant and submitted for approval by the City.

46. All Tract Maps shall be recorded. All Maps shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337

of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

47. Prior to recordation of any Tract map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
48. Prior to recordation of any Final Map, the applicant shall submit for review and shall obtain the Public Works Director approval of applicable utility maintenance easements for water, electric, telephone as required for the Final Map to the benefits of utility companies.
49. Prior to recordation of the Final Map, the applicant shall show all easements proposed to be granted to the City of Newport Beach (ie. over roads for utilities, ingress and egress, pedestrian easements adjacent to internal streets)
50. Prior to recordation of the Final Map of any portion of the project site, the applicant shall provide an irrevocable offer of dedication to the City for the following as identified on Tentative Tract Map No. 17438:
 - a. Neighborhood parks
 - b. Easements for public access to common open space areas, public paseos, walkways and internal streets.

Prior to Issuance of Demolition or Grading Permits

51. Prior to the issuance of grading permits, the applicant shall pay any unpaid City administrative costs and unpaid costs incurred by City retained consultants associated with the processing of this application to the City.
52. Prior to the issuance of grading permits the applicant shall pay all applicable City fees which may include but are not limited to map and plan check, water connection, sewer connection, hydrology review, geotechnical and soils reports review, grading plan review, traffic and transportation, and construction inspection.
53. Prior to the issuance of grading permits the applicant shall demonstrate to the satisfaction of the Director of Public Works that all existing survey monuments are located in the field in compliance with AB 1414 for restoration by the Registered Civil Engineer or Land Surveyor in accordance with Section 8771 of the Business and Professions Code.

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54. Prior to the issuance of grading permits the limits of grading shown on Tentative Tract Map No. 17438 must be verified by a Geotechnical Engineer. Grading shall not be permitted to extend beyond the limits as indicated on Tentative Tract Map No. 17438 without approval of the Community Development Director.
55. Prior to issuance of grading permits a list of “good housekeeping” practices, consistent with the approved Water Quality Management Plan, shall be submitted by the contractor for incorporation into the long-term post-construction operation of the site to minimize the likelihood that pollutants would be used, stored, or spilled on the site that could impair water quality. The WQMP shall list and describe all structural and non-structural BMPs. In addition the WQMP must also identify the entity responsible for the long term inspection, maintenance, and funding for all structural (and if applicable treatment-control) BMPs.
56. Prior to issuance of grading permits, the applicant shall submit documentation in a form and of a content determined by the Community Development Director that any hazardous contaminated soils or other hazardous materials removed from the project site shall be transported only by a Licensed Hazardous Waste Hauler to approved hazardous materials disposal site, who shall be in compliance with all applicable State and federal requirements, including the U.S. Department of Transportation regulations under 49 CFR (Hazardous Materials Transportation Act), California Department of Transportation (Caltrans) standards, Occupational Safety and Health Administration (OSHA) standards, and under 40 CFR 263 (Subtitle C of Resource Conservation and Recovery Act). The Director of Community Development shall verify that only Licensed Haulers who are operating in compliance with regulatory requirements are used to haul hazardous materials.
57. Prior to the issuance of any grading permits, the Community Development Director shall review the grading plan for conformance with the grading shown on the approved tentative map. The grading plans shall be accompanied by geological and soils engineering reports and shall incorporate all information as required by the City. Grading plans shall indicate all areas of grading, including remedial grading, and shall extend to the limits outside of the boundaries of an immediate area of development as required by the City. Grading shall be permitted within and outside of an area of immediate development, as approved by the City, for the grading of public roads, highways, park facilities, infrastructure, and other development-related improvements. Remedial grading for development shall be permitted within and outside of an immediate development area, as approved by the City, to adequately address geotechnical or soils conditions. Grading plans shall provide for temporary erosion control on all graded sites scheduled to remain unimproved for more than 30 days.
58. If the applicant submits a grading plan that deviates from the grading shown on the approved tentative map (specifically with regard to slope heights, slope ratios, pad elevations or configurations), as determined by the Community Development Director, the Community Development Director shall review the plan for a finding of substantial conformance. If the Community Development Director finds the plan not to be in substantial conformance, the applicant shall process a revised tentative map or, if a

final map has been recorded, the applicant shall process a new tentative map. A determination of CEQA compliance shall also be required.

59. Prior to the issuance of the first grading permit and/or action that would permit project site disturbance, the applicant shall provide evidence to the City of Newport Beach Police Department that a construction security service or equivalent service shall be established at the construction site along with other measures, as identified by the Police and the Public Works Departments, to be instituted during the grading and construction phase of the project.
60. Prior to issuance of applicable grading permits the applicant shall submit for review and approval by the Municipal Operations Department Director, a 1"=200' Utilities Master Plan prepared by a Registered Civil Engineer consistent with the Uptown Newport Master Development Plans showing all existing and proposed public and private sewer pump stations, force mains, laterals, mains and manholes, domestic water service facilities including gate and butterfly valves, pressure reducing stations, pressure zones, fire hydrants, meters, storm drain facilities to include storm drain mains, laterals, manholes, catch basins, inlets, detention and retention basins, water quality basins and energy dissipaters, outlets, pipe sizes, pipe types fiber optics, electricity, gas and telephone/telecommunications and any other related facilities as identified by the Municipal Operations Department Director. The Master Utilities Plan shall provide for the following:
 - a. All public utilities shall be constructed within dedicated public rights of way and/or easements or as approved by the Public Works Director.
 - b. The water quality infiltration basins within the neighborhood parks on Lots O and M shall be constructed, offered for dedication to the City as part of the neighborhood parks, and upon acceptance by the City, and shall be privately maintained by the entity identified in the open space management plan.
61. Prior to issuance of applicable grading permits, the applicant shall submit a construction management and delivery plan for each phase of construction to be reviewed and approved by the Public Works Director. Upon approval of the plan, the applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan. The construction management plan shall include, at a minimum, the following:
 - a. Construction phasing plan.
 - b. Parking plan for construction vehicles and plan for equipment storage.
 - c. Construction area traffic management plan for the project for the issuance of a haul route permit. The traffic management plan shall be designed by a registered Traffic Engineer. The traffic management plan shall identify construction phasing and address traffic control for any temporary street closures, detours, or other disruptions to traffic circulation and public transit routes. The traffic management

plan shall identify the routes that construction vehicles shall use to access the site, the hours of construction traffic, traffic controls and detours, vehicle staging areas, and parking areas for the project. Advanced written notice of temporary traffic disruptions shall be provided to emergency service providers and the affected area's businesses and the general public. This notice shall be provided at least two weeks prior to disruptions. Haul operations shall be monitored by the Department of Public Works, and additional restrictions may be applied if traffic congestion problems arise. A staging area shall be designated on-site for construction equipment and supplies to be stored during construction.

- d. A construction and equipment staging area shall be identified within the project and shall be properly maintained and/or screened to minimize potential unsightly conditions.
- e. A construction fencing plan to include installation of a six-foot-high screen and security fence to be placed around the construction site during construction.
- f. A 24 hour hotline number shall be provided and conspicuously posted at all construction sites for complaints or questions regarding construction activities.
- g. Construction mitigation measures as required by the MMRP.
- h. A statement that all grading and construction shall comply with NBMC Section 10.28.040 (Noise Ordinance).
- i. A statement requiring construction contractors to sweep paved roads within and adjacent to the project site if visible soil materials are carried to the streets. Street sweepers or roadway washing trucks shall comply with SCAQMD Rule 1186 and shall use reclaimed water if available.
- l. A statement to be provided to all construction contractors that requires all construction contractors to comply with South Coast Air Quality Management District's (SCAQMD's) Rules 402 and 403 in order to minimize short-term emissions of dust and particulates. SCAQMD Rule 402 requires that air pollutant emissions not be a nuisance off site. SCAQMD Rule 403 requires that fugitive dust be controlled with Best Available Control Measures so that the presence of such dust does not remain visible in the atmosphere beyond the property line of the emission source. This requirement shall be included as notes on the contractor specifications. Table 1 of Rule 403 lists the Best Available Control Measures that are applicable to all construction projects. The measures include, but are not limited to, the following:
 - i. *Clearing and grubbing:* Apply water in sufficient quantity to prevent generation of dust plumes.
 - ii. *Cut and fill:* Pre-water soils prior to cut and fill activities and stabilize soil during and after cut and fill activities.

- iii. *Earth-moving activities:* Pre-apply water to depth of proposed cuts; re-apply water as necessary to maintain soils in a damp condition and to ensure that visible emissions do not exceed 100 feet in any direction; and stabilize soils once earth-moving activities are complete.
 - iv. *Importing/exporting of bulk materials:* Stabilize material while loading to reduce fugitive dust emissions; maintain at least six inches of freeboard on haul vehicles; and stabilize material while transporting to reduce fugitive dust emissions.
 - v. *Stockpiles/bulk material handling:* Stabilize stockpiled materials; stockpiles within 100 yards of off-site occupied buildings must not be greater than 8 feet in height, must have a road bladed to the top of the pile to allow water truck access, or must have an operational water irrigation system that is capable of complete stockpile coverage.
62. Prior to the issuance of grading permits, the applicant shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the Construction General Permit and submit the above to the State Water Quality Control Board for approval and made part of the construction program. The applicant shall provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. The SWPPP shall detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.
63. Prior to issuance of grading permits, the applicant shall prepare and submit a Final Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Director of Community Development and Director of Public Works. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur. The WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

Prior to Issuance of Demolition and Building Permits

64. Prior to the issuance of building permits within each development phase of the project, the applicant shall demonstrate to the satisfaction of the Director of Community Development that the Santa Ana Regional Water Quality Control Board has issued a "No Further Action" (NFA) declaration or a Letter of Allowance for residential construction for the portion of the site being developed.
65. Prior to the issuance of a building permit for the construction of residential and commercial uses, the applicant shall pay the required Property Excise Tax to the City of Newport Beach, as set forth in its Municipal Code (§3.12 et seq.) for public improvements and facilities associated with the City of Newport Beach Fire

Department, the City of Newport Beach Public Library, and City of Newport Beach public parks.

66. Prior to the issuance of building permits the applicant shall obtain approval of a plan stating that water for firefighting purposes and an all weather fire access road shall be in place before any combustible materials are placed on site. Fire access roads shall be designed to support the 75,000 pound load of fire apparatus for year round weather conditions.
67. Prior to the issuance of any residential building permit, the applicant shall submit for review and shall obtain the approval of the Community Development Director, plans indicating the location and type of unit address lighting to be installed.
68. Prior to the issuance of building permits, the applicant shall pay applicable fees to the Santa Ana Unified School District Pursuant to Section 65995 of the *California Government Code* Payment of the adopted fees would provide full and complete mitigation of school impacts.
69. Prior to issuance of any demolition permit, testing for all structures for presence of lead-based paint (LBP) and/or asbestos-containing materials (ACMs) shall be completed. The Asbestos-Abatement Contractor shall comply with notification and asbestos removal procedures outlined in the South Coast Air Quality Management District's (SCAQMD's) Rule 1403 to reduce asbestos-related air quality health risks. SCAQMD Rule 1403 applies to any demolition or renovation activity and the associated disturbance of ACMs. This requirement shall be included on the contractors' specifications and verified by the Director of Community Development. All demolition activities that may expose construction workers and/or the public to ACMs and/or LBP shall be conducted in accordance with applicable regulations, including, but not limited to Title 40 of the *Code of Federal Regulations* (CFR), Subchapter R (Toxic Substances Control Act); CalOSHA regulations (Title 8 of the *California Code of Regulations* §1529 [Asbestos] and §1532.1 [Lead]); and SCAQMD Rule 1403 (Asbestos Emissions from Demolition/Renovation Activities). The requirement to adhere to all applicable regulations shall be included in the contractor specifications, and such inclusion shall be verified by the Community Development Director prior to issuance of a demolition permit.
70. Prior to issuance of applicable building permits, the applicant shall submit to the Director of Community Development for review and approval, architectural plans and an accompanying noise study that demonstrates that interior noise levels in the habitable rooms of residential units due to exterior transportation noise sources would be 45 dBA CNEL or less. Where closed windows are required to achieve the 45 dBA CNEL limit, project plans and specifications shall include ventilation as required by the California Building Code.
71. Prior to issuance of building permits for Phase 1, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and

submitted to the Community Development Department for review and approval. The study shall demonstrate that all residential units would meet the 65 dBA CNEL exterior noise standard for all patios, balconies, and common outdoor living areas (playgrounds, parks, and swimming pools). The necessary noise reduction may be achieved by implementing noise control measures at the TowerJazz facility and at the receiver locations, as described in detail in the Technical Memorandum provided by Wilson Ihrig and Associates (Appendix J of the FEIR).

72. Prior to issuance of building permits for Phase 2, a detailed acoustical study based on architectural plans shall be prepared by a qualified acoustical consultant and submitted to the Community Development Department for review and approval. The study shall demonstrate that all residential units would meet the 65 dBA CNEL exterior noise standard for all patios, balconies, and common outdoor living areas (playgrounds, parks, and swimming pools). The necessary noise reduction may be achieved by implementing noise control measures at the receiver locations. The final grading and building plans shall incorporate the require noise barriers (patio enclosure, wall, berm, or combination wall/berm), and the property owner/developer shall install these barriers and enclosures.
73. Prior to issuance of applicable building permits, the applicant shall submit for review and approval by the City of Newport Beach Police Department, development plans for the incorporation of defensible space concepts to reduce demands on police services. Public safety planning recommendations shall be incorporated into the project plans. The applicant shall prepare a list of project features and design components that demonstrate responsiveness to defensible space design concepts.
74. Prior to the issuance of building permits plans shall be submitted to the satisfaction of the Community Development Director to include requirements that all contractor specifications include a note that architectural coatings shall be selected so that the VOC content of the coatings is compliant with SCAQMD Rule 1113.
75. Prior to the issuance of building permits the applicant shall submit for review and approval by the Community Development Director building plans designed to meet or exceed all State Energy Insulation Standards and City of Newport Beach codes in effect at the time of application for building permits. Commonly referred to as Title 24, these standards are updated periodically to allow consideration and possible incorporation of new energy efficiency technologies and methods. Title 24 covers the use of energy-efficient building standards, including ventilation; insulation; construction; and the use of energy-saving appliances, conditioning systems, water heating, and lighting. Plans submitted for building permits shall include written notes or calculations demonstrating compliance with energy standards.
76. Prior to the issuance of building permits for any residential, commercial, or park and recreation use, the applicant shall provide evidence satisfactory to the Fire Department that adequate permanent or temporary fire protection facilities are in place on the job site and are tested prior to placing any combustible material on the job site.

Prior to Issuance of Certificates of Use and Occupancy

77. Prior to the issuance of certificate of occupancy for any residential unit, the applicant shall demonstrate to the satisfaction of the City of Newport Beach Fire Department that the following disclosures and emergency notification procedures/programs are in place:
- a. Disclosure to potential Uptown Newport residences that hazardous chemicals are used and stored at the adjacent TowerJazz facility.
 - b. Inclusion of property manager or authorized representative of the Uptown Newport residential community to the emergency notification list of the TowerJazz Business Emergency Plan.
 - c. Program to inform/train the property manager or authorized representative of the Uptown Newport residential community in emergency response and evacuation procedures and to incorporate ongoing coordination between the Uptown Newport representative and TowerJazz to assure proper action in the event of an accident at the facility (shelter in place and/or evacuation routes).
 - d. Update TowerJazz emergency alarm system to include concurrent notification to Uptown residents of chemical release. Provisions of the alarm system and emergency notification procedure shall be reviewed and approved by the City of Newport Beach Fire Department.
78. Prior to issuance of certificate of use and occupancy for any residential or commercial use within each phase, the applicant shall complete construction of all applicable roadways, parkways, median and median landscaping, sidewalks, intersection street lights, signage and utilities including but not limited to water, water quality management, sewer, storm drain, fiber optics, gas, electricity, telephone and telecommunications necessary to serve the use and the above facilities shall be operational to serve the use, the extent of which shall be determined by the Public Works and Municipal Operations Departments.
79. Prior to the issuance of a certificate of use and occupancy for residential dwelling units within Lots 1 and 15 of Phase 1, i) the improvements to the neighborhood park in Phase 1 (Lot O) shall be completed by the applicant, and ii) the CC&Rs, irrevocable offer of dedication, access easements, or other instruments providing for public access and use of the park facilities in perpetuity, and including the timing for opening of the park facilities for public use, shall be recorded to the satisfaction of the Community Development Director.
80. Prior to the issuance of a certificate of use and occupancy for residential dwelling units within Lots 12 and 14 of Phase 2, i) the improvements to the neighborhood park in Phase 2 (Lot M) shall be completed by the applicant, and ii) CC&Rs, irrevocable offer of dedication, access easements, or other instruments providing for public access and

use of the park facilities in perpetuity, and including the timing for opening of the park facilities for public use, shall be recorded to the satisfaction of the Director of Community Development.

81. Prior to the issuance of certificates of use and occupancy the applicant shall demonstrate to the satisfaction of the Public Works Director that applicable street name signs have been installed.
82. Prior to the issuance of a certificate of use and occupancy for any sales center or model home complex, the applicant shall complete construction of roadway improvements adequate to serve the sales center or model home complex to the satisfaction of the Director of Public Works and the Director of Community Development.
83. Prior to the issuance of the first certificate of use and occupancy for any residential, commercial, or retail use in the project all applicable master infrastructure improvements identified in the Final SWPPP and WQMP including debris basins, bio-swales, energy dissipaters, drainage pipes, water quality basins and other improvements shall be constructed and the applicant shall provide all necessary dedications, deed restrictions, covenants or other instruments for the long term maintenance of the facilities in a manner meeting the approval of the Director of Public Works.
84. Prior to the issuance of certificates of use and occupancy for any residential, commercial, or park and recreation use, fire hydrants shall be installed and tested.

Subdivision Improvement Plans

85. All subdivision improvement plans shall identify the use of best management practices (BMPs) for erosion control, sediment control, wind erosion control, storm water and non-storm water management, and waste management/pollution control. The BMP's identified for implementation shall demonstrate that potential effects on local site hydrology, runoff, and water quality remain in compliance with all required permits, City policies, and the Project's Water Quality Management Plan and Storm Water Pollution Prevention Plan.
86. The applicant shall design and/or construct all required onsite and offsite improvements within each development phase to permanent line and grade in accordance with NBMC Chapter 19.24 (Subdivision Design), with the exception of the deviations from this Chapter as described on TTM No. 17438 and approved by the Public Works Director.
87. The applicant shall design and/or construct all required onsite and offsite improvements within each development phase to permanent line and grade in accordance with NBMC Chapter 19.28 (Subdivision Improvement Requirements), with the exception of the deviations from this Chapter as described on TTM No. 17438 and approved by the Public Works Director.

88. The applicant shall design and/or construct all required onsite and offsite improvements within each development phase to permanent line and grade in accordance with Chapter 19.32(Improvement Plans).
89. Approval of improvement plans shall in no way relieve the applicant or the applicant's engineer of responsibility for the design of the improvements or from any deficiencies resulting from the design, nor from compliance with any tentative map condition of approval.
90. The applicant shall design and/or construct all required onsite and offsite improvements within each development phase to permanent line and grade in accordance with NBMC Chapter 19.36 (Completion of Improvements).
91. All new utility lines to serve the project shall be installed in underground trenches.
92. Intersection design shall be approved by the Director of Public Works and comply with City's sight distance standards.
93. All subdivision improvement plans shall include the use of light emitting diode (LED) lights for street lights.
94. All subdivision improvement plans shall conform to the following Fire Department requirements:
 - a. Detailed plans of underground fire service mains shall be submitted to the Fire Department for approval prior to installation. These plans shall be a separate submittal to the Fire Department.
 - b. Blue hydrant identification markers shall be placed with new hydrants.
 - c. All weather access roads designed to support the 75,000 pound imposed load of fire apparatus for year round weather conditions shall be installed and made serviceable prior to and during time of construction for emergency personnel.
 - d. Fire apparatus access roads designed to support the 75,000 pound imposed load of fire apparatus for year round weather conditions shall be maintained and identified as per Newport Beach Guideline C.01 Emergency Fire Access and C.02 Fire Lane Identification.
 - e. All security gates shall have knox locks for after hours emergency personnel access to the construction site.
92. Prior to the release of financial security, the applicant shall demonstrate to the satisfaction of the Director of Public Works and the Director of Community Development that the Project CC&Rs have been approved by the City Attorney and the appropriate Association(s) has been formed.

93. Prior to the release of financial security, the applicant shall demonstrate to the satisfaction of the Director of Public Works that all permanent survey monuments damaged or destroyed during construction are restored.
94. Prior to the release of financial security, the applicant shall demonstrate to the satisfaction of the Director of Public Works that all street improvements damaged during construction have been repaired or replaced.
95. Prior to the release of financial security, the applicant shall submit as-built plans prepared by a Registered Civil Engineer depicting all street, traffic signal, sewer, water, and storm drain improvements and street signage and signage placements, traffic markings and painted curbing, and all other required improvements shall be completed to the satisfaction of the Director of Public Works.
96. Prior to the release of financial security, all domestic water and sewer systems shall be fully tested in the presence of a City staff representative, to verify system performance in accordance with design specifications.
97. Prior to the release of financial security the applicant shall execute an agreement to the satisfaction of the Director of Public Works and the Director of Community Development which designates the maintenance responsibilities for all landscaping and irrigation systems in the Project.
98. Prior to the release of financial security the applicant shall submit as-built plans at an appropriate scale to the Recreation and Senior Services Director showing as-built neighborhood park improvements and paseos.
99. Prior to the release of financial security the applicant shall demonstrate to the satisfaction of the Municipal Operations Department Director that all underground public utilities necessary for the construction of residential, park, retail or commercial uses within each development phase to proceed as indicated on Tentative Tract Map No. 17438 have been completed in accordance with the approved Utilities Master Plan and that the as-built plans for said improvements, prepared by a Registered Civic Engineer have been submitted and approved by the Director of the Municipal Operations Department.
100. Consistent with General Plan Policy LU6.15.16, the amount of any credit against in-lieu of parkland dedication fees for recreational facilities within Public Recreational Open Space Areas (e.g. paseos) shall be based on the degree to which recreational facilities complement existing or proposed public park facilities serving the subdivision, and the degree to which recreational facilities within the proposed paseos reduce the burden on existing or proposed public park facilities serving the subdivision. In no case shall the total credit exceed 30% of the Parkland Dedication Requirement.

EXHIBIT H

TENTATIVE TRACT MAP NO. NT2012-002

NOTES — EXISTING EASEMENTS

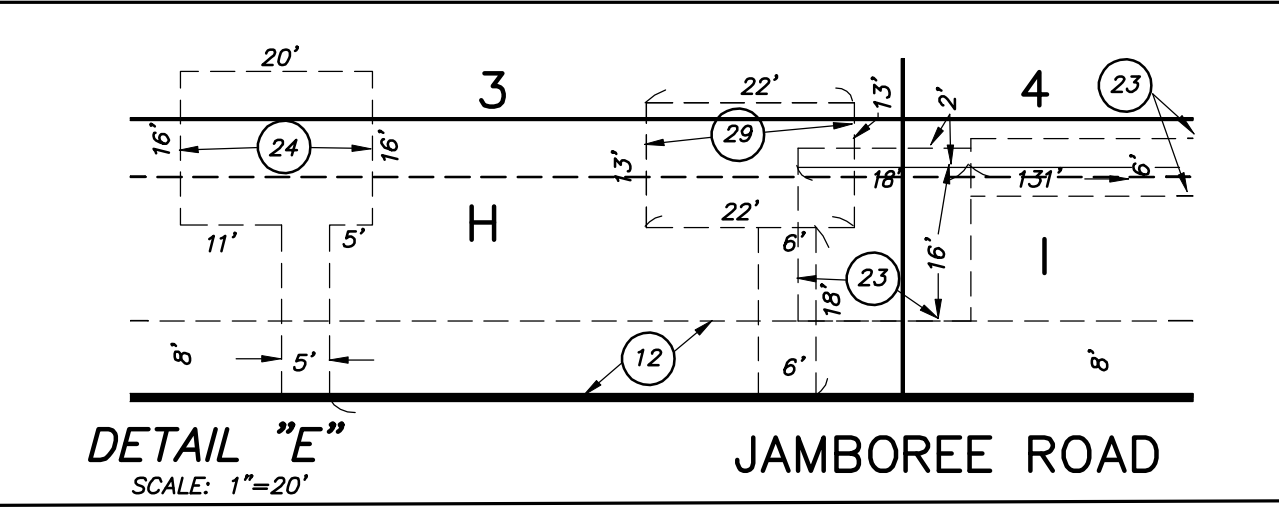
- 9 A GRANT OF EASEMENT DATED NOVEMBER 2, 1972 EXECUTED BY AND BETWEEN COLLINS RADIO COMPANY, DON KOLL COMPANY, INC AND KOLL CENTER NEWPORT AS SET FORTH IN SECTION 1.04, 1.05 (A PORTION THEREOF), 1.06, 1.08, 1.10 AND 1.11 RECORDED NOVEMBER 6, 1972 IN BOOK 10413, PAGE 573 OF OFFICIAL RECORDS.
- 12 AN EASEMENT FOR POLE LINES, CONDUITS AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON RECORDED AS BOOK 11074, PAGE 182 OF OFFICIAL RECORDS.
- 15 AN EASEMENT FOR POLE LINES, CONDUITS AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON RECORDED AS BOOK 11077, PAGE 1117 OF OFFICIAL RECORDS.
- 16 A NON-EXCLUSIVE EASEMENT FOR PURPOSES OF INGRESS AND EGRESS AS RESERVED IN THE DEED RECORDED MAY 7, 1974 IN BOOK 11137, PAGE 1008 OF OFFICIAL RECORDS OVER A PORTION OF SAID PARCEL B-1.
- 18 AN EASEMENT FOR STORM DRAIN AND INCIDENTAL PURPOSES IN FAVOR OF KOLL CENTER NEWPORT, A LIMITED PARTNERSHIP, RECORDED AS BOOK 11137, PAGE 1020 OF OFFICIAL RECORDS.
- 23 AN EASEMENT FOR ELECTRICAL SUPPLY AND COMMUNICATIONS SYSTEMS AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON RECORDED MARCH 7, 1990 AS INSTRUMENT NO. 90-120897 OF OFFICIAL RECORDS.
- 24 AN EASEMENT FOR COMMUNICATION FACILITIES AND INCIDENTAL PURPOSES IN FAVOR OF PACIFIC BELL RECORDED JULY 3, 1991 AS INSTRUMENT NO. 91-346219 OF OFFICIAL RECORDS.
- 25 AN EASEMENT FOR MAINTENANCE AND OPERATION OF AN ELECTRICAL SUBSTATION AND INCIDENTAL PURPOSES IN FAVOR OF SOUTHERN CALIFORNIA EDISON RECORDED SEPTEMBER 3, 1992 AS INSTRUMENT NO. 92-594041 OF OFFICIAL RECORDS.
- 29 AN EASEMENT FOR TELECOMMUNICATIONS FACILITIES AND INCIDENTAL PURPOSES IN FAVOR OF COXCOM INC., D/B/A COX COMMUNICATIONS ORANGE COUNTY, RECORDED NOVEMBER 15, 2005 AS INSTRUMENT NO. 2005000916240 OF OFFICIAL RECORDS.
- 30 GRANT AND QUITCLAIM OF EASEMENTS FOR PASSAGE INCLUDING THE RIGHT TO MAINTAIN DRIVEWAYS, ROADWAYS, SIDEWALKS AND PASSAGEWAYS RECORDED MAY 26 1978 IN BOOK 12690 PAGE 854 OF OFFICIAL RECORDS.

ACREAGES

LOT NO.	AREA AC	LOT	AREA AC	LAND USE:
1	0.96	A	0.11	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
2	0.67	B	0.04	LANDSCAPE & UTILITY EASEMENT
3	1.29	C	0.03	LANDSCAPE & UTILITY EASEMENT
4	1.03	D	0.03	LANDSCAPE & UTILITY EASEMENT
5	1.34	E	0.03	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
6	0.97	F	0.04	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
7	0.74	G	0.04	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
8	0.82	H	0.12	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
9	1.58	I	0.14	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
10	0.30	J	0.18	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
11	1.18	K	0.10	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
12	1.91	L	0.03	PUBLIC ACCESS, SIGNAGE, LANDSCAPE, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
13	0.94	M	1.02	PARK
14	1.06	N	0.15	PUBLIC ACCESS, LANDSCAPE & UTILITY EASEMENT
15	1.54	O	1.03	PARK
16	0.78	P	0.10	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
17	0.67	Q	1.76	ROAD WAY & UTILITY EASEMENT
		R	0.04	ROAD WAY, UTILITY, PEDESTRIAN & BICYCLE EASEMENT
		S	0.25	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
		T	0.48	ROAD WAY & UTILITY EASEMENT
		U	0.04	ROAD WAY, UTILITY, LANDSCAPE, PEDESTRIAN & BICYCLE EASEMENT
		V	0.62	ROAD WAY & UTILITY EASEMENT
		W	0.03	OPEN SPACE & PUBLIC ACCESS
		X	0.04	OPEN SPACE & PUBLIC ACCESS
		Y	0.10	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
		Z	0.36	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
		AA	0.11	OPEN SPACE, PUBLIC ACCESS & UTILITY EASEMENT
		BB	0.23	PRIVATE ACCESS FOR LOT 11 & 12

GROSS AREA: 25.05 AC
LESS ROADWAY, PARKWAY, SIDEWALK: 4.54 AC
LESS PARK: 2.05 AC
NET DEVELOPABLE AREA: 18.46 AC

TENTATIVE TRACT MAP NO. 17438
IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA
FOR CONDOMINIUM PURPOSES



GENERAL NOTES

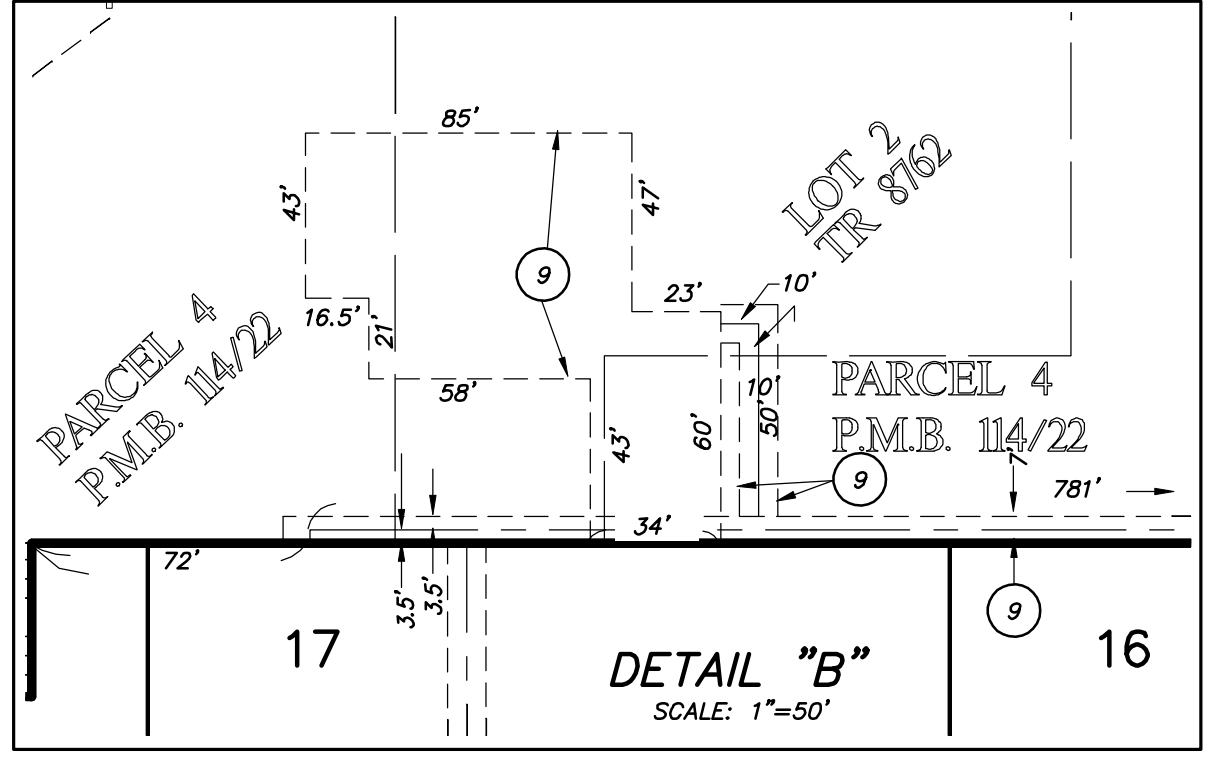
- GROSS AREA: 25.05 ACRES
- THE PROJECT IS WITHIN THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S CLEAR ZONE Z, AREA OF 500-YEAR FLOOD ON THE FLOOD INSURANCE RATE MAP (FIRM), COMMUNITY PANELMAP NO. 0286, EFFECTIVE DATE: FEBRUARY 18, 2004.
- THIS TENTATIVE MAP MAY HAVE MULTIPLE FINAL MAPS.
- THOSE EXISTING EASEMENTS OR PORTIONS OF EXISTING EASEMENTS AFFECTING THE PROPERTY WITHIN THE BOUNDARY OF THIS MAP WILL BE QUITCLAIMED TO THE EXTENT NECESSARY TO ACCOMMODATE THE FUTURE LAND USE.
- ON SITE SEWER AND STORM DRAIN WILL BE PRIVATE.
- PUBLIC ANGLED PARKING AND PEDESTRIAN ACCESS RIGHTS ALONG INTERNAL PRIVATE ROADWAYS WILL BE DOCUMENTED WITH THE CC&R'S.
- ALL SIDEWALKS, ANGLED PARKING AND PARKWAY WILL BE PRIVATE WITH PRIVATE MAINTENANCE.
- STREETS TO BE PRIVATE AND PRIVATELY MAINTAINED.

OWNER/SUBDIVIDER

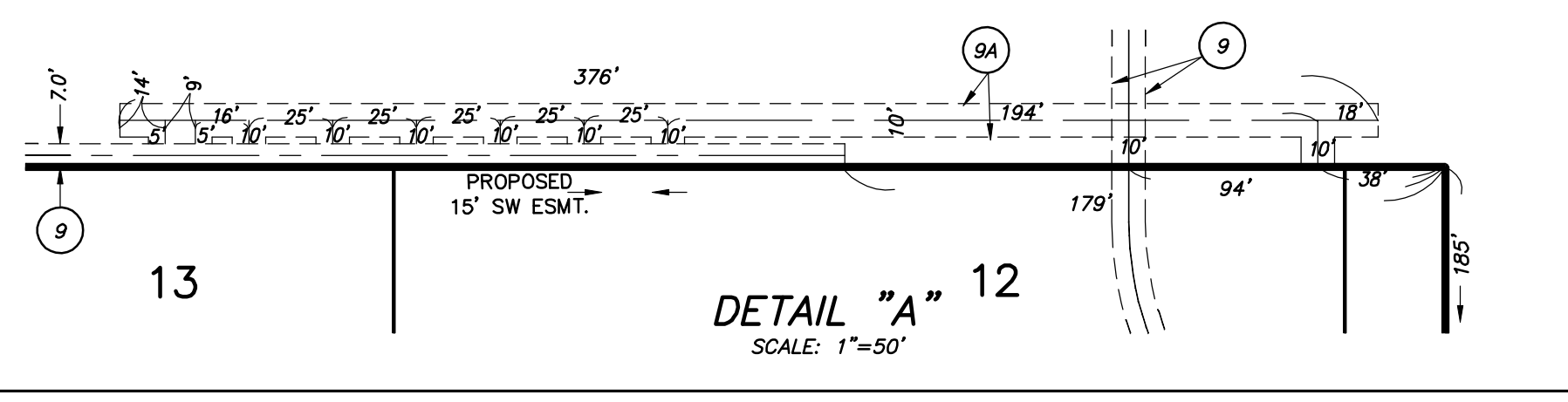
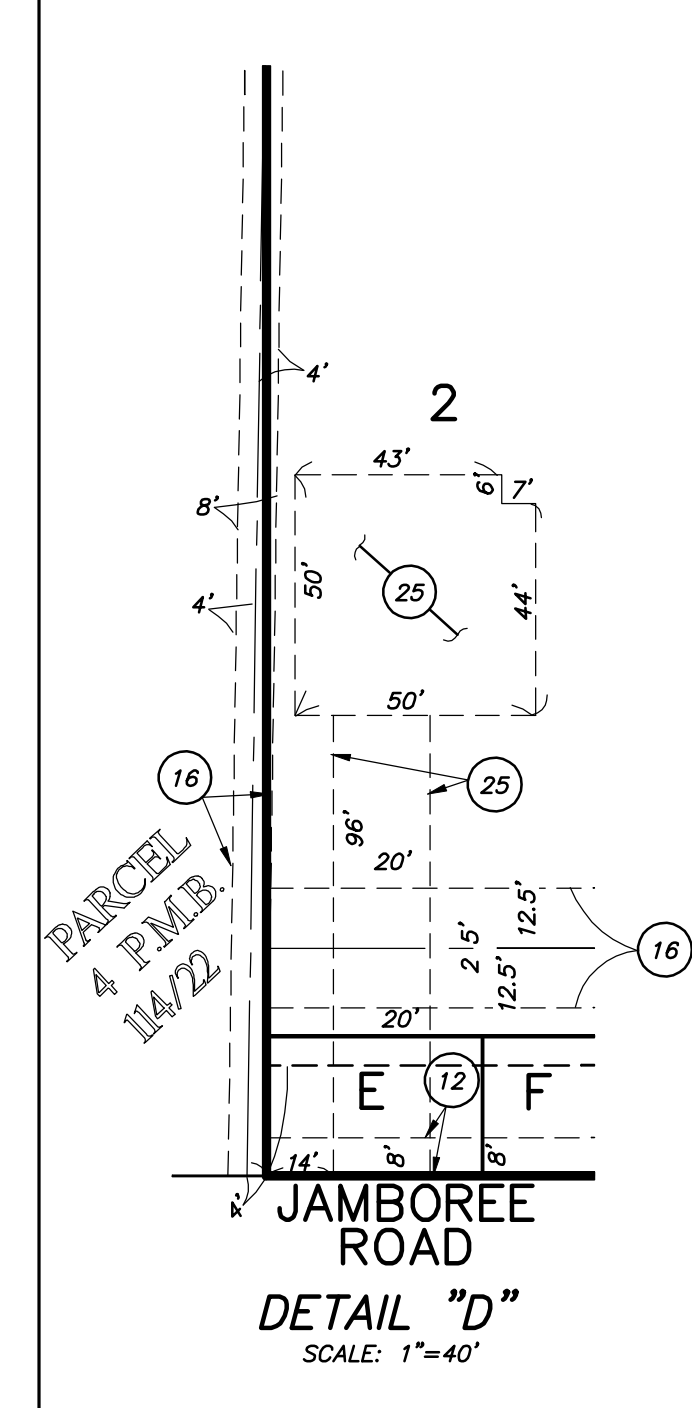
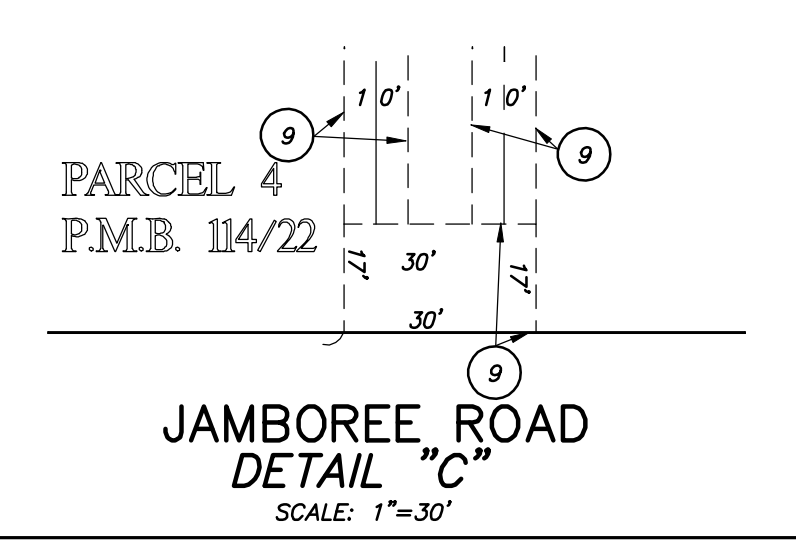
UPTOWN NEWPORT LP
C/O SHOPOFF MANAGEMENT, INC.
2 PARK PLAZA, SUITE 700
IRVINE, CA 92614
(949) 231-5068
(949) 417-1399 FAX

LEGEND

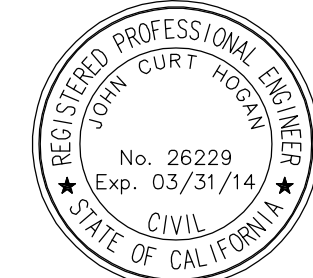
- DIRECTION OF DRAINAGE FLOW
- FF = FINISHED FLOOR
- PE = PAD ELEVATION
- PE1 = PAD ELEVATION WITH 1 LEVEL OF PARKING BELOW GRADE
- PE2 = PAD ELEVATION WITH 2 LEVELS OF PARKING BELOW GRADE
- TENTATIVE TRACT BOUNDARY
- PROPOSED LOT LINE
- PROPOSED BUILDING PAD
- PROPOSED GRADE CONTOUR
- ROADWAY CENTERLINE



PARCEL 4
P.M.B. 114/22



NO.	DESCRIPTION	DATE	BY
	REVISIONS		



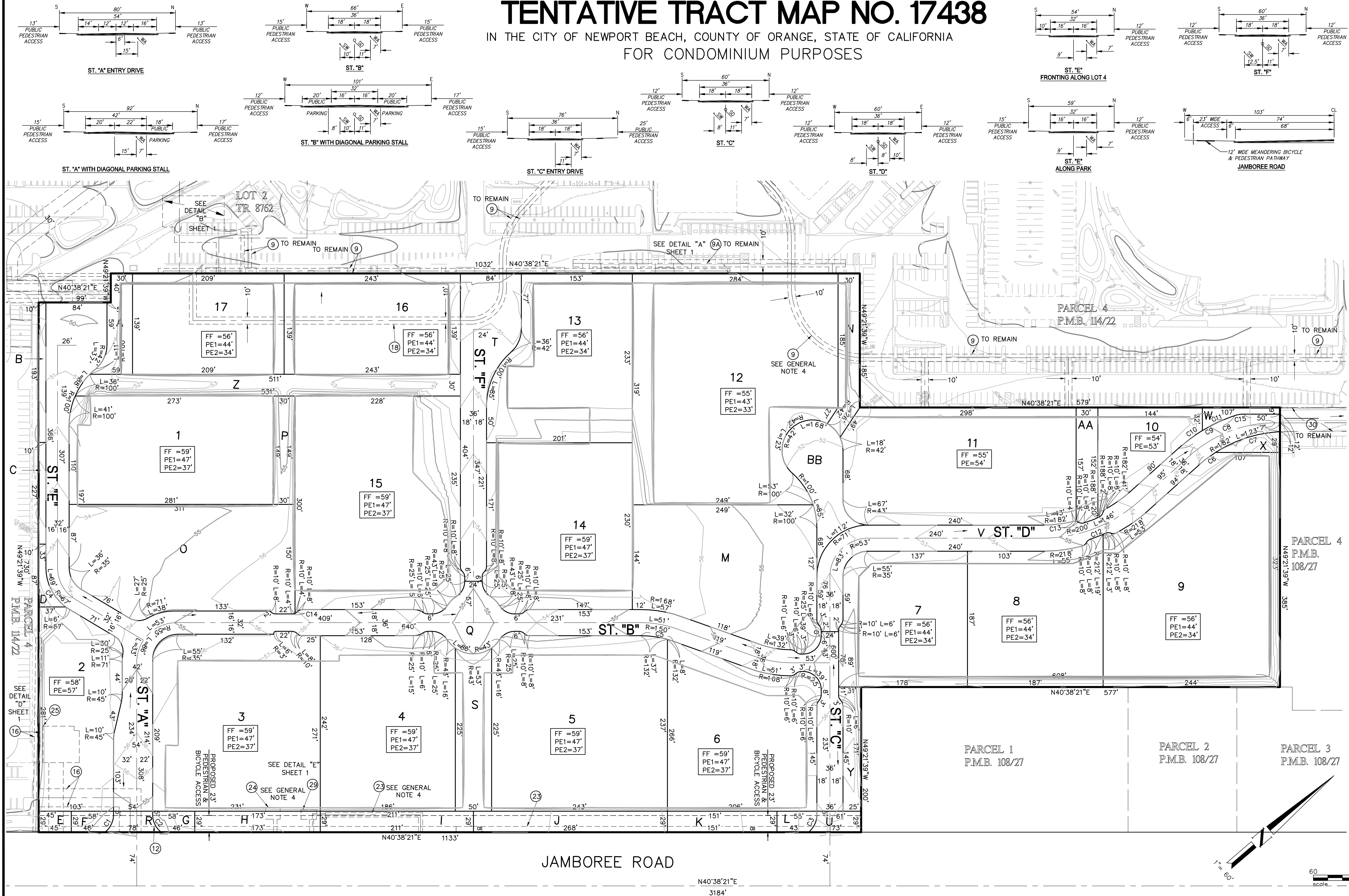
Hall & Foreman, Inc.
Engineering • Planning • Surveying
17782 17TH ST, SUITE 200 • TUSTIN, CA 92780-1947 • 714-665-4500
PREPARED UNDER THE SUPERVISION OF: JOHN C. HOGAN 11/27/12 DATE

CITY OF NEWPORT BEACH				FILE NO.
TENTATIVE TRACT MAP 17438				DRAWING NO.
APN: 445-131-02 & -03				SHEET
UPTOWN NEWPORT				1 OF 2
PA2011-134				
SCALE 1"=120'	DATE 11/28/12	DRAWN BY CS & EO	DESIGNED BY JA & EO	

TENTATIVE TRACT MAP NO. 17438

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA
FOR CONDOMINIUM PURPOSES

CURVE TABLE		
CURVE	RADIUS	LENGTH
C1	30.00'	27.53'
C2	30.00'	27.72'
C3	30.00'	27.40'
C4	67.00'	62.98'
C5	132.00'	45.06'
C6	182.00'	29.01'
C7	182.00'	94.41'
C8	175.00'	127.95'
C9	218.00'	89.77'
C10	218.00'	40.37'
C11	218.00'	49.40'
C12	212.00'	22.01'
C13	10.01'	7.52'
C14	10.01'	8.06'
C15	40.00'	12.77'



LEGEND

- DIRECTION OF DRAINAGE FLOW
- FF = FINISHED FLOOR
- PE1 = PAD ELEVATION WITH 1 LEVEL OF PARKING BELOW GRADE
- PE2 = PAD ELEVATION WITH 2 LEVELS OF PARKING BELOW GRADE
- TENTATIVE TRACT BOUNDARY
- PROPOSED LOT LINE
- PROPOSED BUILDING PAD
- PROPOSED GRADE CONTOUR
- ROADWAY CENTERLINE

NO.	DESCRIPTION	DATE	BY
REVISIONS			



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PREPARED UNDER THE SUPERVISION OF: **JOHN C. HOGAN** 11/27/12

CITY OF NEWPORT BEACH		FILE NO.
TENTATIVE TRACT MAP 17438		DRAWING NO.
APN: 445-131-02 & -03		SHEET
UPTOWN NEWPORT		2 OF 2
PA2011-134		
SCALE 1"=60'	DATE 11/28/12	DRAWN BY CS & EO
DESIGNED BY JA & EO		

EXHIBIT I
REQUIRED FINDINGS

TRAFFIC STUDY NO. TS2012-005

In accordance with NBMC Section 15.40.030 (Traffic Phasing Ordinance), the following findings and facts in support of such findings are set forth:

Finding:

A. *That a traffic study for the project has been prepared in compliance with this chapter and Appendix A [NBMC Chapter 15.30],*

Facts in Support of Finding:

A-1. A traffic study, entitled Uptown Newport Traffic Impact Analysis, prepared by Kimley-Horn and Associates, Inc., May 2012 and revised in November 2012, were prepared for the Project in compliance with Municipal Code Chapter 15.40 (Traffic Phasing Ordinance and Appendix A).

Finding:

B. *That, based on the weight of the evidence in the administrative record, including the traffic study, one of the findings for approval in subsection (B) [NBMC Section 15.40.030.B.2] can be made.*

Section 15.40.030.B.2 states:

The project is a Comprehensive Phased Land Use Development and Circulation System Improvement Plan with construction of all phases not anticipated to be complete within sixty (60) months of project approval; and

- a. *The project is subject to a development agreement which requires the construction of or contributions to, circulation improvements early in the development phasing program, and*
- b. *The traffic study contains sufficient data and analysis to determine if that portion of the project reasonably expected to be constructed and ready for occupancy within sixty (60) months of project approval satisfies the provisions of subsections (B)(1)(a) or (B)(1)(b), and*
- c. *The Land Use and Circulation Elements of the General Plan are not made inconsistent by the impact of project trips (including circulation improvements designed to mitigate the impacts of project trips) when added to the trips resulting from development anticipated to occur within the City based on the Land Use Element of the General Plan and Zoning Ordinance, and*
- d. *The project is required, during the sixty (60) month period immediately after approval, to construct circulation improvement(s) such that:*

- (1) *Project trips will not cause or make worse an unsatisfactory level of traffic service at any impacted primary intersection for which there is a feasible improvement,*
- (2) *The benefits resulting from circulation improvements constructed or funded by, or contributions to the preparation or implementation of a traffic mitigation study made by, the project proponent outweigh the adverse impact of project trips at any impacted primary intersection for which there is (are) no feasible improvement(s) that would, if implemented, fully satisfy the provisions of Section 15.40.030 (B)(1)(b). In balancing the adverse impacts and benefits, only the following improvements and/or contributions shall be considered with the greatest weight accorded to the improvements and/or contributions described in subparagraphs (a) or (b):*
 - a. *Contributions to the preparation of, and/or implementation of some or all of the recommendations in, a traffic mitigation study related to an impacted primary intersection that is initiated or approved by the City Council,*
 - b. *Improvements, if any, that mitigate the impact of project trips at any impacted primary intersection for which there is (are) no feasible improvement(s) that, if implemented, would fully satisfy the provisions of Section 15.40.030 (B)(1)(b),*
 - c. *Improvements that mitigate the impacts of project trips on any impacted primary intersection in the vicinity of the project,*
 - d. *Improvements that mitigate the impacts of project trips on any impacted primary intersection operating, or projected to operate, at or above 0.80 ICU; and*
- (3) *The Planning Commission, or City Council on review or appeal finds, by the affirmative vote of five-sevenths (5/7) of the members eligible to vote, that this chapter is inapplicable to the project because the project will result in benefits that outweigh the project's anticipated negative impact on the circulation system.*

Facts in Support of Finding:

- B-1. Based on the weight of the evidence in the administrative record, including the Traffic Study, mitigation measures, and the conditions of approval, all of the findings for approval in Section 15.40.030.B.2 can be made.
- B-2. Phase 1 is projected to generate an additional 5,012 daily trips, 317 during the AM peak hour and 443 during the PM peak hour. At the project's build-out (Phase 2), the Project generates 8,286 daily trips, 542 during the AM peak hour and 727 during the PM peak hour. The Project would shift traffic patterns to and from the site as the

Project involves a shift from office and industrial development to residential uses. The Project will consist of primarily residential uses, which will have reverse traffic patterns from existing uses at the site. As the result, while the proposed project results in an overall increase in daily trips, there would be a reduction of trips on some intersection movements and an increase on others in each of the morning and evening peak hours. The net new trips to be added (or subtracted due to the shift from employment to residential) to the street system does not result in any significant impacts to the studied intersections and segments.

- B-3. The Project design provides for primary and secondary ingress and egress from Jamboree Road, but also includes a third access drive to and from Birch Street, utilizing a non-exclusive access easement established by an express grant of easement recorded in 1978.
- B-4. The proposed Project meets the requirements for a Comprehensive Phased Land Use Development and Circulation System Improvement Plan as the Project is subject to a Development Agreement and conditions of approval that require the construction of, or contributions to, circulation improvements early in the development phasing program.
- B-5. The complete Project is not anticipated to be completed within five years approval. The Traffic Study analyzed Phase 1, which is expected to be completed by 2018. Phase 2 of the Project is anticipated to commence in 2017 and be completed in 2021 or later, and therefore requires a separate traffic analysis at a later date prior to recordation of final maps or building permits for Phase 2. The Traffic Study found the Project would not result in a significant impact with the addition of Phase 1 Project trips at the study intersections.
- B-6. The Traffic Study and FEIR analyzed intersections projected to exceed the Level of Service ("LOS"), which is a "D" standard except certain designated intersections within the airport area shared with the City of Irvine that permit LOS "E."
- B-7. Intersection peak hour traffic conditions were evaluated for Year 2018 (existing plus growth plus committed projects) both without and with Phase 1 traffic. The Traffic Study found that the following intersections would operate at an unacceptable level of service both without and with Project Phase 1:
- Jamboree Road at I-405 SB Ramps (AM: LOS F)
 - Jamboree Road at Michelson Drive (PM: LOS F)
 - Harvard Avenue at Michelson Drive (PM: LOS E)

All other study intersections would operate at an acceptable LOS in both peak hours. The Project related impact of Phase 1 at Harvard Avenue and Michelson Drive would be negative because the reduction in existing office trips would more than offset the addition of the proposed residential trips.

- B-8. The DEIR and Traffic Study found the addition of Project traffic would not cause additional intersections to operate at an unacceptable LOS, and the Project would not result in a significant impact at any study intersection.
- B-9. The proposed Project does not result in an inconsistency between the Land Use Element and the Circulation Element of the General Plan by the impact of project trips (including circulation improvements designed to mitigate the impacts of project trips) when added to the trips resulting from development anticipated to occur within the City based on the Land Use Element of the General Plan and Zoning Code. The development included in the proposed Project is consistent with the General Plan.
- B-10. Transportation and traffic impacts would be mitigated to less than significant and no mitigation is required.

Finding:

- C. *That the project proponent has agreed to make or fund the improvements, or make the contributions, that are necessary to make the findings for approval and to comply with all conditions of approval.*

Facts in Support of Finding:

- C-1. Concept plans depicting the recommended street improvements are included in the resolution of approval and conditions of approval for the Tentative Tract Map for the proposed Project. The Project also will be responsible for the payment of Fair Share fees in accordance with Chapter 15.32 that will be used to fund future planned improvements to the circulation system. Additionally, the Project will be required to pay any applicable fees for the Major Thoroughfare and Bridge Fee Program.

EXHIBIT J
TRAFFIC STUDY NO. TS2012-005

Exhibit J is available for review at the Planning Division of Community Development Department
or at <http://newportbeachca.gov/index.aspx?page=2029>

EXHIBIT K
AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2012-001

Exhibit K is available for review at the Planning Division of Community Development Department or at <http://newportbeachca.gov/index.aspx?page=2029>

EXHIBIT L
DEVELOPMENT AGREEMENT NO. DA2012-003

Exhibit L is available for review at the Planning Division of Community Development Department or at <http://newportbeachca.gov/index.aspx?page=2029>

Attachment No. PC 2

Draft Resolution of Denial

RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH DENYING WITHOUT PREJUDICE PLANNED COMMUNITY DEVELOPMENT PLAN AMENDMENT NO. PD2011-003, PLANNED COMMUNITY DEVELOPMENT PLAN ADOPTION NO. PC2012-001, TENTATIVE TRACT MAP NO. NT2012-002, AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2012-001, TRAFFIC STUDY NO. TS2012-005, AND DEVELOPMENT AGREEMENT NO. DA2012-003 FOR THE 25.05 ACRE PLANNED COMMUNITY KNOWN AS UPTOWN NEWPORT LOCATED AT 4311-4321 JAMBOREE ROAD (PA2011-134)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Uptown Newport LP (“Uptown Newport” or “Applicant”) with respect to a 25.05-acre property generally located on the north side of Jamboree Road between Birch Street and the intersection of Von Karman Avenue and MacArthur Boulevard, legally described on Exhibit A, which is attached hereto and incorporated herein by reference, (the “Property”) requesting approval for the development of up to 1,244 residential dwelling units, 11,500 square feet of retail commercial uses and 2 acres of parklands (the “Project”). The following approvals are requested or required in order to implement the project as proposed:
 - a. Planned Community Development Plan Amendment No. PD2011-003. An amendment to Planned Community Development Plan #15 (Koll Center Planned Community) to remove the subject property from the Koll Center Planned Community, pursuant to Chapter 20.66 (Amendments) of the Municipal Code.
 - b. Planned Community Development Plan Adoption No. PC2012-001. A Planned Community Development Plan adoption to establish the allowable land uses, general development regulations, and implementation and administrative procedures, which would serve as the zoning document for the construction of up to 1,244 residential units, 11,500 square feet of retail commercial, and 2.05 acres of park space to be built in two separate phases on a 25.05-acre site, pursuant to Chapter 20.56 of the Municipal Code.
 - c. Tentative Tract Map No. NT2012-002. A tentative tract map to establish lots for residential development purposes pursuant to Title 19 of the Municipal Code.
 - d. Traffic Study No. TS2012-005. A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the Municipal Code.
 - e. Affordable Housing Implementation Plan No. AH2012-001. A program specifying how the proposed project would meet the City’s affordable housing requirements,

pursuant to Chapter 19.53 (Inclusionary Housing) and Chapter 20.32 (Density Bonus) of the Municipal Code.

- f. Development Agreement No. DA2012-003. A Development Agreement between the applicant and the City of Newport Beach describing development rights and public benefits, pursuant to Section 15.45.020.A.2.a of the Municipal Code and General Plan Land Use Policy LU6.15.12.
2. The Property is currently located within the City of Newport Beach ("City") Koll Center Newport Planned Community and is designated as Industrial Site 1.
3. The Property has a General Plan designation of Mixed-Use District Horizontal-2 (MU-H2), and the Property is located within the Airport Business Area, for which the Airport Business Area Integrated Conceptual Development Plan ("ICDP") has been adopted. The ICDP allocates a maximum of 1,244 residential units and up to 11,500 square feet of retail to be developed on the Property.
4. On October 4, 2012, the Planning Commission held a study session for the proposed project in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California.
5. A public hearing was held on December 6, 2012 in the City Hall Council Chambers, at 3300 Newport Boulevard, Newport Beach, California. A notice of the time, place and purpose of the aforesaid meeting was provided in accordance with the Newport Beach Municipal Code ("NBMC"). The staff report and evidence, both written and oral, were presented to and considered by the Planning Commission at the hearing.

SECTION 2. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach does hereby deny without prejudice Planned Community Development Plan Amendment No. PD2011-003, Planned Community Development Plan Adoption No. PC2012-001, Tentative Tract Map No. NT2012-002, Traffic Study No. TS2012-005, Affordable Housing Implementation Plan No. AH2012-001, and Development Agreement No. DA2012-003.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 6TH DAY OF DECEMBER, 2012.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Michael Toerge, Chairman

BY: _____
Fred Ameri, Secretary

Attachment No. PC 3

List of Responses to
Commissioner Tucker's
Comments

Larry Tucker
Uptown Newport Study
Session List of Issues
October 4, 2012



Below are my comments to the Uptown Newport project documents received to date, other than the DEIR. My apologies in advance for duplicative or off base comments of which there will surely be a few.

Responses are noted in italics. Responses are dated November 14, 2012.

I. OVERVIEW

1. Will the Commission be asked to approve a Parcel Map when the matter formally comes before the Planning Commission? If so, perhaps some (many?) of my questions/comments will be addressed when we see the proposed conditions of approval.

A tentative tract map (TTM No. 17438) is included in the proposed entitlements for Uptown Newport that are to be considered for approval by the Planning Commission. Staff and the applicant are currently finalizing draft conditions of approval for the tentative tract map, and will be providing

2. Note 3 of the TIM contemplates that there may be multiple final maps based upon the TIM.

The tentative tract map sets forth the overall site layout of the proposed parcels, streets, parks, paseos, and common area lots. As required by the Subdivision Map Act, the TTM must note the intent to file multiple final maps if multiple maps are to be filed. Uptown Newport will be developed in two phases, and two final maps are contemplated, one for each phase.

3. Presumably, the Applicant intends to have the right to record one or more Final Maps and deed out parcels to buyers.

Upon recordation of a final map, multiple parcels will be created that can be sold and conveyed to merchant builders. At this time, we anticipate 1 to 4 individual merchant builders to participate in the first phase.

4. If some parcels may be deeded out, is there a risk to the City that a parcel will not have access or utilities without the cooperation of another owner? See comments on Phasing Plan.

The tentative map is required to maintain legal access to parcels pursuant to the Subdivision Map Act. Legal access to the parcels will also need to be shown on the final map, which will preclude parcels being conveyed without legal access. The conditions of approval specify that utilities will be constructed in public rights-of-way or easements as shown on the final map prior to approval of the final map. In addition, the master improvements for Phase 1 are proposed to be constructed in whole to avoid individual building parcels from preventing the completion of master improvements.

5. Does the Applicant intend to act as Master Developer of the site work? That is, grading and underground public services.

The Applicant will be the Master Developer for the project. The conditions of approval require the Master Developer to complete the Master Site Improvements and also require material and labor

bonds for master improvements. In addition, the regulatory documents have been revised to clarify that the applicant will be the Master Developer for the project, and that the site grading and master infrastructure including streets, wet utilities, dry utilities, parks, paseos and other common area improvements will be completed by the master developer.

6. If so, will the master grading plan contemplate subterranean parking on some, most, all or none of the parcels since there will be no surface parking lots allowed for residential uses (Design Guidelines Page 16)?

Parking within Uptown Newport must be structured subterranean or encapsulated (e.g., wrap architecture or lined with residential units). The preliminary master grading plan included in the Phasing Plan contemplates subterranean parking. The ultimate configuration of buildings and design of structured parking will be incorporated into the final grading plans for each phase to minimize the need for import or export of soil.

7. The Design Guidelines indicate that certain design master plans are to be accomplished later, such as: Landscape Plan, Fencing and Wall Plan, Common Area Lighting Plan, and a Comprehensive Sign Program. Some of what is in the documents indicates that plans are "For Illustrative Purposes Only". If parcels are deeded out before these plans are finalized, how is the completion of those plans managed so that a Master Plan is created that is binding on all future owners? Should that be done before parcels can be deeded out?

The regulatory documents have been revised to clarify that Master Site Improvements for the project will be constructed by the Master Developer, and that a Master Site Development Plan shall be prepared and submitted for review and approval by the Planning Commission (see page 19 of the Land Uses, Development Standards and Procedures regulatory document). The Master Site Development Plan review is proposed as an interim review process that will be initiated after the Planned Community zoning and entitlements are in place.

The Master Site Development Plan will provide design development plans and specification for Master Site Improvements, including: 1. Demolition, site preparation and rough grading; 2. Backbone storm drain system; 3. Sanitary sewer system; 4. Water distribution system; 5. Reclaimed water distribution system; 6. Public street improvements, including street paving, curb and gutter, sidewalk, parkway improvements to the back of sidewalk; 7. Common area fencing and walls; 8. Neighborhood Park improvements for the two (2) public parks; 9. Landscape improvements within common areas, including: public street parkways to the back of sidewalk; project entries; Jamboree Road parkway and Class 1 and multi-use trail; Neighborhood Park landscape improvements; paseo landscape improvements; 10. Master street light and common area lighting improvements; 11. Dry utilities; 12. Master community signage.

II. PARCEL MAP

1. Who will own the lettered lots? Notes 7 & 8 indicate that streets, sidewalks, angled parking and parkways will be privately owned and maintained. What about the Paseos? The PC Text refers to the parks as "Public" (at Page 17). Presumably that means the land will be dedicated to the City, which will own and maintain the parks, correct?

The two neighborhood parks will be improved by the Master Developer and will be dedicated to the City. However, the Master Association will maintain the park. The lettered lots, including common area lots and paseos will be improved by the Master Developer and conveyed to the Master Association for ownership and maintenance. The conditions of approval require a master association for maintenance of common improvements.

2. Will lettered lots other than the public parks be privately owned and maintained and if so by whom?

See response to item 1 above.

3. If the tentative map is not recorded all at one time, will all of the lettered lots in a phase be included in the first map recorded in that phase?

Yes. All lettered lots in Phase 1 will be recorded with the Final Map for Phase 1, and likewise for Phase 2. No "sub phasing" is proposed.

4. If not, then how will the contemplated improvements of those lettered lots be secured?

The conditions of approval require material and labor bonds for master improvements.

5. Does the Applicant contemplate conveying the lettered lots to an owners association?

Yes. The lettered lots, including common area lots and paseos will be improved by the Master Developer and subsequently conveyed to the Master Association for ownership and maintenance. In addition, the conditions of approval require the CC&R's to be prepared and submitted for approval by the Community Development Director.

III. SITE PLAN

1. The site plan should identify the number of angled and on-street parking spaces are part of the plan and each space should be numbered.

The Site Plan has been revised to show the number of spaces as requested.

2. Patrons of the retail space who enter at Fairchild Intersection and use the angled parking and who desire to exit the project and go north on Jamboree will need to make an awkward turning movement at Street E, or have to pull off a mid-block turn around in Street A, or wend their way to Birch Street. Are there any better alternatives?

Under the current site plan, visitors would be able to turn around in the cul-de-sac on Street "F", or turn right out of the secondary Jamboree entry and make a u-turn at Jamboree and Fairchild to go north on Jamboree. We have also evaluated incorporating a roundabout circle within the project to provide an alternative for consideration by the Planning Commission. A copy of the alternative will be provided for your review under separate cover.

IV. PLANNED COMMUNITY DEVELOPMENT PLAN (Land Uses, Development Standards and Procedures)

1. Page 6, is there a limit as to how long industrial uses may remain on the property? It looks to me like there is no limit.

The Planned Community Development Plan (PCDP) has been revised to reflect a sunset date of March 12, 2027 for the existing industrial uses, which is consistent with the maximum option terms of the lease with the current tenant (TowerJazz). See Section 2.1.1 (page 7) of the revised PCDP.

2. Page 6, are there any allowable uses that should be prohibited once residents move in nearby?

The existing uses will be allowed to continue, subject to current Code requirements. The existing ammonia tank used by TowerJazz will be relocated such that there is a minimum of 200 feet of separation from the ammonia tank and residential buildings. This is a mitigation measure, a condition of approval, and is also incorporated into

the Phasing Plan on Page 5.

3. Page 7, Accessory Uses are referred to but not defined. What are they?

A definition for Accessory Uses has been added on Page 22.

4. Page 8, are the following uses appropriate given the density of nearby residential in the project and seemingly small scale of the retail element: The uses listed under "Commercial Recreation and Entertainment", Animal Sales and Services, Animal Grooming/Veterinary Services, Fast Food (not sure what that is -- does that mean with a drive-thru?) and fitness facilities over 2,000 s.f.

The permitted land uses table has been updated and revised to allow for flexibility in future uses that are consistent with the Mixed Use-Horizontal (MU-H2) land uses designation, but to omit uses that are not consistent with the intent of the Uptown Newport Planned Community. See revised land use table on Page 9.

5. Page 9, Wireless Telecommunication Facilities should only require a Minor Use Permit as it will be easy to plan for them up front.

Wireless Telecommunication Facilities has been changed to Minor Use Permit. See revised land use table on Page 9.

6. Page 11, there should be some very specific language on the interface between commercial and residential. Noisy uses and uses requiring food exhaust venting should not be located below or next to residential without mitigating features.

Page 8, Section 2.1.2 has been revised to include the following: Interface between retail and residential uses will incorporate mitigation features as outlined in the Design Guidelines document to limit nuisances such as odors and noise generated by the retail uses.

7. Page 17, I question the wisdom of crediting all street parking against required retail parking. Some credit may be appropriate, but to the extent there is a significant amount of restaurant space, I would be very concerned about giving any credit. Further, it is not clear to me where guests and service staff/personnel of homeowners would park (some, or all, of the project could be "for sale" housing which usually generates a greater need for parking).

On-street parking for visitors is provided adjacent to the retail uses and throughout the project. Additional parking for retail uses, visitors, employees, and service staff is provided in structured parking that is integrated into the building structure. It is intended that the structured parking provide for the majority of the required parking within the project. Credit for on-street parking is only provided for the spaces that are adjacent to the retail or residential uses. See Section 3.4, page 17.

8. Page 17, I am not sure there should be a right to deviate from parking requirements with a parking management plan. I would delete the word "number" in 4.1.2 d and delete 4.1.4 Para. 4. This is a new

development and there does not seem to be a justification to deviate from code parking requirements. Having said that, doesn't the code already allow for a deviation process? If so, why add one here?

The reference to deviating from parking requirements with a parking management plan has been omitted.

8. Page 19, 4.1.4 Para. 3 a, should be revised to read: "All exterior materials and their manner of application". Page 18, 4.1.4 Para. 6 a, should be revised to read: "General location of all plant material, by common and botanical names with photographs."

The revisions have been incorporated. Refer to Page 21, Section 4.2.4 of the revised document.

9. Page 19, won't some type of review be necessary for the master landscape plan (at least along streets and paseos) or the comprehensive sign plan or the master fencing plan? If the Applicant desires to deed out property prior to plan approval for site work/signage then it would seem that the overall plan, other than building plans, would have to be agreed to before parcels are deeded out. Once those plans have been approved, then I'd feel more comfortable with review of building plans and landscaping to be located on numbered parcels being left to the Director.

The implementation of the Planned Community Development Plan (refer to Section 4) has been revised to clarify the process for approval of implementing projects. The Master Site Development Plan review is proposed as an interim review process that will be initiated after the Planned Community zoning and entitlements are in place. A Master Site Development Plan will be prepared for review by the Planning Commission.

10. Page 22, add a definition of Streets and then refer the reader to Section 3.2.7.

Section 3.3 - "On-Site Circulation" has been added to provide definition to the streets within Uptown Newport and reference the corresponding street section figures.

V. DESIGN GUIDELINES

1. Page 4, Vision Statement implies that connections with Koll property will be coordinated. How will this be ensured since there is no common ownership?

The vehicular and pedestrian connections between Uptown Newport and the Koll Center Newport are based on the approved Koll-Conexant ICDP, of which, Koll was an applicant. The ultimate build out of the ICDP will include future improvements by Koll within the Koll Center Newport to finalize the pedestrian connections.

The Uptown Newport property has an access easement through the Koll Center Newport from the westerly access road to Von Karman Avenue, and this will provide the planned emergency vehicular access. Uptown Newport will also improve the pedestrian connections up to the Koll Center Newport property, and will seek to complete the pedestrian connections within the Koll Center Newport property, but such improvements on the Koll property can only be completed with the consent of the Koll property ownership. The following condition of approval is being recommended for this purpose:

"Require that the applicant make best efforts to negotiate in good faith and arrive at fair and reasonable arrangements with neighboring property owners to facilitate pedestrian connections from the property to Von Karman, including pedestrian ingress, egress and sidewalk construction and maintenance."

2. Page 8, the Master Concept Plan (Figure 2-5) purports to incorporate the "framework principles" yet it does not actually depict several framework principles (e.g. #'s 3, 5, 7 & 8).

The Framework Principles section of the Design Guidelines has been revised substantially to clarify the intent of the framework principles.

3. Page 12, can traffic calming devices be designed at the front end of project. Otherwise, when will

they be designed?

Traffic calming devices including chokers and enhance paving are included in the revised site plan.

3. Page 16, should paid parking be prohibited? Is there enough on-street parking to accommodate visitors and customers of retailers. If there is not, where would visitors and customers of retailers park and when would that be figured out?

We do not believe that paid parking should be prohibited, and the decision should be at the discretion of the Master Association. Uptown Newport has public improvements that will be available to the public, but is a privately owned community and should be allowed to include paid parking. Paid parking is integral to managing parking in communities and Cities like the many villages within Newport Beach. Paid parking is abundant in public areas throughout the City, including the majority of the properties in the Airport Area, and it may be beneficial to the ultimate management of Uptown Newport to have flexibility in whether to designate paid parking areas or not.

On-street parking for visitors is provided adjacent to the retail uses and throughout the project. Additional parking for retail uses, visitors, employees, and service staff is provided in structured parking that is integrated into the building structure. It is intended that the structured parking provide for the majority of the required parking within the project. Credit for on-street parking is only provided for the spaces that are adjacent to the retail or residential uses. See Section 3.4, page 17.

4. Page 23, windows with articulated frames should be required for windows facing Jamboree Road.

The revised document expands on the concept of this comment and requires enhanced façade treatments in visually prominent areas of Uptown Newport, including Jamboree Road. Refer to Sections 3.4, 3.5 and 3.6 in the revised Design Guidelines.

5. Page 25, not sure I understand how Plexiglas will be mounted on hinges so it opens and closes.

Plexiglas enclosures are a common way of providing additional noise reduction for residential units along Jamboree Road or other areas that may be subject to elevated noise. The Plexiglas enclosures can be mounted on hinges to allow the residential owners to open the Plexiglas enclosure if desired. Refer to Figure 3-34 on Page 40 of the revised Design Guidelines.

6. Page 27, what does it mean to "optimize" grading?

The language has been revised to clarify that the intent of the grading plan is to limit the amount of import or export from the site. Refer to Page 43 or the revised Design Guidelines.

7. Page 36, Figure caption refers to Phase 2 entry drive, but it looks like Phase 1 from the diagram.

This correction has been made.

8. Page 38, synthetic turf? Really?

Commercially available synthetic turf is extremely realistic in appearance, and is widely used in high-end residential communities. Synthetic turf is a preferred method of providing for ground cover in areas of high pedestrian traffic or dog walking such as parkways adjacent to building lobbies.

9. Page 40, some of the list of improvements look like they may have been carried over from park description and may not fit in Paseos: lawn bowling, horseshoes, bocce ball, picnic areas and exercise stations.

The listed improvements are potential amenities or are of the character of the amenities that can be incorporated into the paseos of associated common open space areas. The paseos are intended to provide for pedestrian connectivity as well as to provide for opportunities for gathering spaces and passive

recreation.

11. Page 40, any requirement that Paseo landscape plans be consistent throughout the development?

Paseo landscaping will be part of the Master Site Improvements by the Master Developer, and will be designed to be consistent throughout the development. Refer to Section 5.3 (Page 47) of the revised Design Guidelines.

11. Page 42, when do the public parks get built? Will they be consistent in design with each other?

The Phase 1 park will be developed by the Master Developer as part of the Master Site Improvements for Phase 1, and likewise for Phase 2. The Conditions of Approval will include the specific milestones for each park.

12. Page 46, says "The project should have one fence design used throughout all parcel areas." When is that design determined and by whom?

The design of community walls and fences will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

13. Page 48, says "This community is encouraged to embrace a unified lighting theme in fixtures of common area streets. How would that "encouragement" be manifested and implemented?

The design of community lighting will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

14. Page 51, who will develop the Comprehensive Sign Program and when will it be done? Also see footnote at Page 54.

The Comprehensive Sign Program fences will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

15. Page 54, delete references to Pylon Signs. They should not be allowed.

References to pylon signs have been deleted.

16. Page 56, limits sign copy to 3 tenant signs yet diagram shows 4 tenant signs.

Section 6.7 has been revised to clarify that up to 4 tenant signs are allowed.

17. Page 58, clarify that a tenant may only pick one of the three sign types.

Section 6.9 has been revised to clarify that up to 2 tenant signs are allowed, with a third sign for corner retail spaces.

VI. PHASING PLAN

1. Page 2, the land will be phased, but where the units fall is totally subject to change. Should there be a limit on the upper end and lower end of the unit count in Phase 1?

The minimum and maximum units by phase is specified on page 3 of the revised plan.

2. Page 4, note that the Applicant proposes to introduce residents to an area with a 2,200 gallon

liquid ammonia tank.

A detailed analysis of the use of an ammonia tank by the TowerJazz facility is included in the Uptown Newport DEIR. The analysis concluded that the ammonia tank should be located a minimum of 200 feet from residential buildings to provide a safe separation distance in the event of a release of ammonia from the tank. It should be noted that ammonia is not a carcinogen nor fatal in the event of exposure to ammonia in the air, but it is an irritant that can cause substantial discomfort if exposed to at high concentrations.

3. Page 4, which water Board is SRWQCB?

The Phasing Plan has been revised to clarify that this is the Regional Water Quality Control Board (RWQCB).

3. Page 6, looks like erroneous reference to Figure 2-1 should be to 3-1.

This has been corrected.

4. Page 12, will all Phase 1 streets be bonded with recordation of first map in Phase 1. If not, when. Same comment with respect to pedestrian circulation facilities.

The following is included in the draft conditions of approval:

Prior to Final Map recordation for residential and/or commercial development the applicant shall provide separate labor and material improvement bonds or irrevocable letters of credit in a form and amount acceptable to the Director of Public Works for 100% of estimated improvement cost, as prepared by a Registered Civil Engineer and approved by the Director of Public Works, for each, but not limited to, the public and private improvements:

- a. *Street improvements, monuments, sidewalks, striping and signage, park improvements, Class 1 bike trail improvements along the Jamboree street frontage, street lights, sewer systems, water systems, storm drain and water quality management systems, erosion control landscaping and irrigation in public rights of way or common areas, private slopes and common area recreational areas, and off-site improvements required as part of the project.*

5. Page 13, indicates a Master Landscape Plan will be done, but doesn't indicate when.

The design of the Master Landscape Plan will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

7. Page 17, indicates the project would have one fence design and that the locations will be done in "future design". When and by whom?

The design of community walls and fences will be part of the Master Site Development Plan Review prior to site development, and will be subject to review by the Planning Commission.

8. Page 30 refers to an outline of the Phase 2 landscape framework, hardscape and streetscape character, but Figure 6-6 indicates it is for "illustrative purposes" only.

The multiple references to "for illustrative purposes only" has been removed from the Phasing Plan.

10. Page 31, retailers won't appreciate emphasis on shade trees that could block their signage.

While this point is duly noted, the landscape design concept for the Uptown Newport project is a high priority for the project as a whole, and retail users will have sufficient opportunities for signage with both monument signage and on-building signage.

11. There is no diagram of neighborhood streets, which is ok, except the road in from Birch is really 108

just a neighborhood street. Perhaps there should be more detail on the design of this street segment.

The streets within Uptown Newport are depicted on Figure 6-5 for each phase. Section 6.5.1 of the revised Phasing Plan provides a narrative, plan view and cross-section view of the Birch Street entry drive.

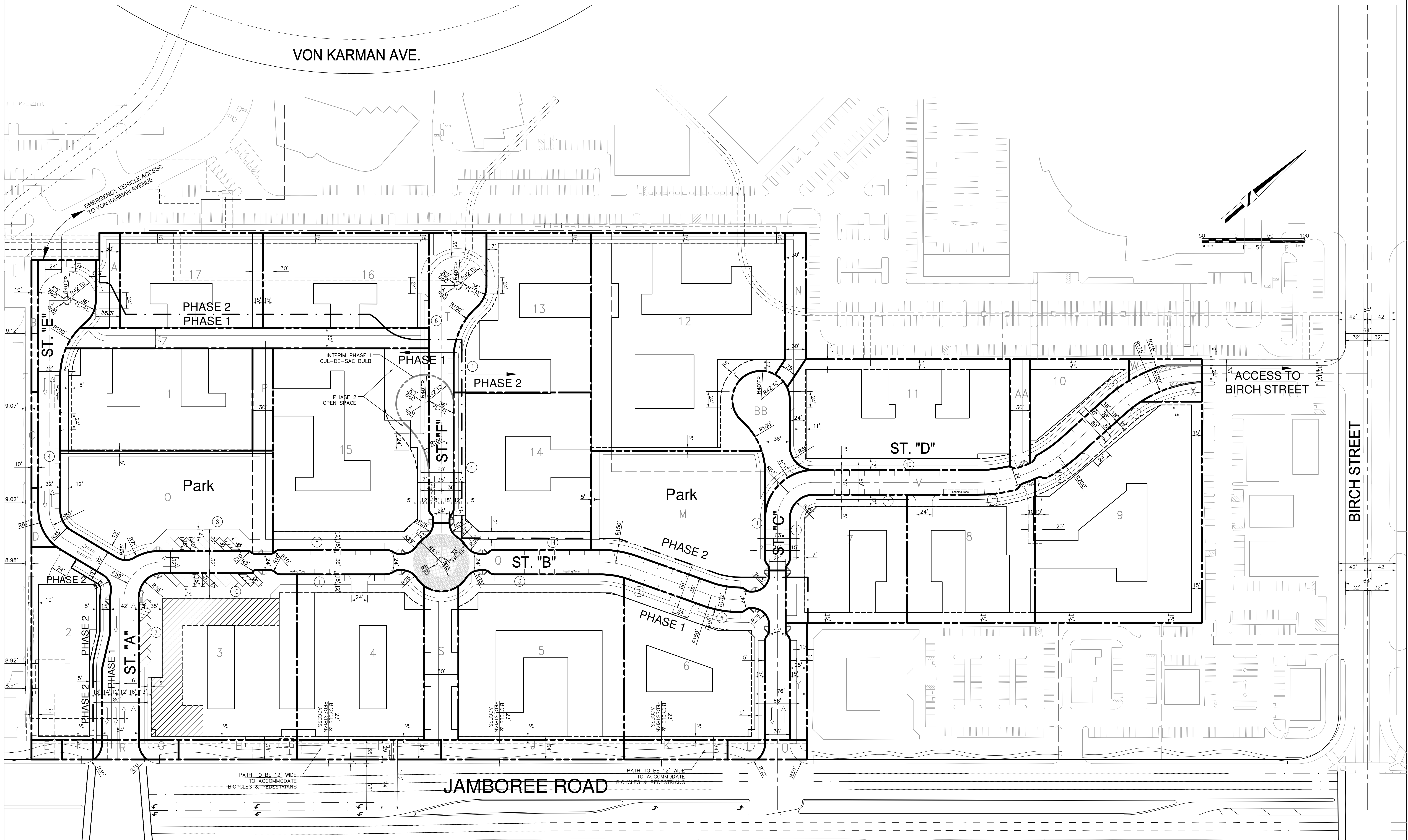
12. Page 33, the word "could" is used which means "could not" as well. Is that intended?

The regulator documents for Uptown Newport, including the Planned Community Development Plan, Design Guidelines, and the Phasing Plan have been revised to affirm the intent of the Applicant to develop a quality high density residential village that is consistent with the vision of City of Newport Beach.

Attachment No. PC 4

Site Plan

UPTOWN NEWPORT PRELIMINARY SITE PLAN



① NUMBER OF PARKING STALLS = 93 STALLS

CONCEPTUAL BUILDING PAD FOOTPRINT

RETAIL

ENHANCED PAVERS

LEGEND

SITE BOUNDARY
PROPOSED LOT LINES
PHASE LINE

PREPARED ON: NOVEMBER 28, 2012

Hall & Foreman, Inc.
Engineering • Planning • Surveying
17782 17TH ST, SUITE 200 • TUSTIN, CA 92780-1947 • 714-665-4500

Attachment No. PC 5

Correspondence

JOHN S. ADAMS & ASSOCIATES, INC.

5100 BIRCH STREET, NEWPORT BEACH, CALIFORNIA 92660
(949) 833-1972 FAX (949) 851-2055

November 26, 2012

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915



Re: Uptown Newport Project
Newport Beach, California

Dear Ms. Ung:

I am submitting these comments as President of Courthouse Plaza Association. This association includes 5100, 5120, 5140 and 5160 Birch Street (Courthouse Plaza), a four building office complex located immediately adjacent to the proposed Uptown Newport Project.

We are submitting this letter and comments for consideration by the Planning Commission as it reviews the Uptown Newport project.

The following is a summary of some of the major issues we have with the project.

1. The project exceeds the maximum density allowed by the General Plan.
2. The project does not conform to the General Plan guidelines in terms of connectivity and building massing.
3. The project is not compatible with the adjacent Koll Center business park.
4. The project will create a twelve fold increase in traffic.
5. The project does not provide adequate parking or adequate distribution of spaces.
6. The project imposes shadows on adjacent buildings.
7. The project imposes a significant noise and vibration impact on adjacent buildings.
8. Construction traffic will significantly impact the Birch Street Easement.
9. The project proposes modification and construction on the Birch Street Easement that it does not have the right to construct.
10. The project attempts to convert a private driveway easement for public traffic use.
11. The project proposes the ability to transfer additional development rights to the project site.

Lastly, the citizens of Newport Beach approved a General Plan that envisioned a mixed-use urban village for the Airport Area based on the ROMA designs. These designs provided for an attractive, integrated, urban village that would be an asset to the Airport Area and the city. The project as proposed is a massive, unimaginative project that turns its back on the adjacent business park neighborhood and appears to be designed with the intent of maximizing density. The project does not follow the leads suggested by the ROMA design and will result in an isolated high density apartment complex that fails to take advantage of a once in a generation opportunity to provide an asset to the City of Newport Beach.

Regardless of the numerous technical faults, which are discussed on the following pages, the Planning Commission currently has an opportunity to help shape the proposed project so that it meets the intent of the General Plan. The majority of the issues and impacts created by the proposed project, both technical and aesthetic, can be mitigated significantly by reducing the density of the proposed project to 30 units per acre. At this lower density, which is consistent with General Plan guidelines, the proposed project will be more likely to provide the benefits to the City of Newport Beach that were envisioned by the General Plan.

A detailed description of each of the issues referenced above and suggested solutions is included on the following pages.

Sincerely,

JOHN S. ADAMS & ASSOCIATES, INC.

A handwritten signature in cursive script, reading "John S. Adams". The signature is written in dark ink and is positioned above the printed name.

John S. Adams

Attached: Descriptions of Issues and Suggested Solutions
 Letter from Cadden & Fuller

DESCRIPTION OF ISSUES AND SUGGESTED SOLUTIONS

1. Maximum Density Exceeds General Plan Guidelines

The General Plan allows for building density of a minimum of 30 units per net acre and a maximum of 50 units per net acre. The Tentative Tract Map indicates a total net acreage of 17.68 acres. Therefore, minimum and maximum densities are as follows.

	<u>Maximum Density</u>	<u>Minimum Density</u>
Net Acres	17.68	17.68
Density	<u>x 50/acre</u>	<u>x 30/acre</u>
Maximum Units (before density bonus)	884 units	530 units
Maximum Density Bonus (35%)	<u>x 1.35</u>	<u>x 1.35</u>
Maximum Units (after density bonus)	1,193 units	715 units

The project proposes a total of 1,244 units. This exceeds the maximum allowed.

Solution: Reduce project density to conform with General Plan requirements.

2. General Plan – Connectivity and Building Massing

Connectivity: The General Plan approved for the Uptown Newport and the adjacent Koll Center area envisioned (see Figure LU23) a total of five ingress and egress points for the development (two to Jamboree, one to MacArthur, one to Von Karman and one to Birch). The project as proposed only has the two Jamboree Road access points and the Birch Street Easement access. The Birch Street access is a private driveway easement, not a street as shown on General Plan Figure LU23. The Von Karman and MacArthur access points are subject to Koll Center owner's approval. So in reality, only the two Jamboree Road access points are not subject to legal and other issues.

There also are proposed pedestrian access points between Uptown Newport and Koll Center. These pedestrian access points also are subject to Koll Center owner's approval.

Because Uptown's access points, both vehicular and pedestrian, are reduced from what the General Plan envisioned, the project should be considered only on the basis of the access that exists. The reduced access points place additional traffic burden on the remaining three access points.

Solution: Because of this reduced access, the project density should be reduced to lessen the burden on the remaining access points.

Building Massing: The project as proposed has 150 foot tower zones setback only 15 feet from adjacent property lines. This results in a massive unbroken property façade. The design is not compatible with the ROMA designs contained in the General Plan. Moreover, the design is not compatible with adjacent the Koll Center business park.

Solution: Building structures should have significant setbacks from adjacent properties. Low-rise structures should be situated along the perimeter of the project and high-rise structures should be located in the interior of the project.

3. Koll Center Newport PC

The existing Koll Center PC resulted in a project with mixed low-rise and high-rise buildings with significant setbacks and open space between buildings. Building owners within Koll Center purchased their buildings on the basis of this plan and the appealing environment it created. The proposed project with its high density and limited building setbacks is not compatible with the existing neighborhood. Based on the assumption of 1,244 units at an average of 1,100 square feet per unit, this project will insert approximately 1,368,000 square feet of buildings into the business park. The size and scale is not compatible with the surrounding business park development.

Solution: Reduce project density, increase setbacks and increase open space so that the project is compatible with the existing business park environment created by the Koll Center PC.

4. Traffic

The EIR indicates daily trip generation for this project is as follows:

Existing Use:	747
Proposed Total:	9,047
Net New Trips:	8,286

The proposed project results in an increase of 8,286 trips, which is a twelve-fold increase. The Birch Street Easement will experience AM Peak Hour trip increases of 124% (82 existing vs. 184 as proposed) and PM Peak Hour increases of 95% (148 existing vs. 289 as proposed). This increase in traffic will significantly impact the ability of Courthouse Plaza tenants to access the Birch Street driveway from the Courthouse Plaza parking lots. This will result in a decrease in rent levels and damage to property value.

Solution: Reduce trip generation on the Birch Street Easement to the existing levels. This should be accomplished by reducing project density to approximately 632 units, which is the density indicated to be traffic neutral by the ICDP.

5. Parking

The project contemplates “parking management plans” which would allow the project to deviate from code parking requirements. If not adequately parked, the surrounding properties will be negatively affected by overflow parking from the project. The project has 25 acres on which to provide adequate parking. The project should not be allowed to deviate from the code parking requirements.

Parking for the retail component should be provided per code requirements and be located in close proximity to the retail component.

Lastly, adequate parking for visitors to the parks should be located adjacent to the parks. The Master Site Plan shows no parking spaces adjacent to the Phase 2 park.

Solution: Require the project to provide parking per code for all uses (residential, retail and park). Parking should be properly dispersed throughout the project to insure no overflow impact on adjacent properties.

6. Shadows & Setbacks

Shadows: The proposed plan indicates buildings up to 150 feet in height with a 15 foot setback from the property line with Courthouse Plaza. The EIR (Figures 1C, 2B, and 2C) indicates the Courthouse Plaza office buildings will be subject to significant shadow impacts.

Solution: Any proposed buildings that will cast shadows on adjacent properties should be relocated to the interior of the Uptown Village parcel so that all shadows are contained on-site.

Setbacks: The majority of adjacent buildings in Koll Center Newport are setback approximately 100 to 150 feet from the property lines shared with the project. The project buildings should be required to have similar setbacks. This will minimize the impacts from shading and be more aesthetically compatible with the surrounding business park.

Solution: Increase the 15 foot set back from the Courthouse Plaza property line and Koll Center Newport property line to approximately 100 to 150 feet. Also, require reduced building heights and project density to eliminate shadow impact.

7. Noise/Vibration

The EIR states that vibration levels during Phase 2 will exceed thresholds at the adjacent office buildings to the northeast, which is our Courthouse Plaza project. The EIR states the vibration levels will cause annoyance to the occupants. The impact will be significant on Courthouse Plaza. The loud noise and vibration caused during construction will result in lost tenants and reduced rental rates during construction. This will have significant economic impact on the Courthouse Plaza buildings.

Solution: Mitigation of this issue should be solved by the developer. Noise and vibration should be reduced to acceptable levels with sound walls or other methods during construction.

8. Construction Traffic

The construction of each phase of the project could last several years. This will create significant noise, dust and other issues related to construction traffic. This will have significant economic impact on the Courthouse Plaza buildings.

Solution: Require all construction traffic during both phases to be directed to and from Jamboree Road and not allowed to utilize the Birch Street Easement.

9. Sidewalks, Utilities and Landscaping – Birch Street Easement

The project proposes the modification and installation of various improvements across the Birch Street Easement and Birch Street frontage. The project developer does not have the right to construct or modify improvements in the easement area. Please refer to the attached letter from our attorney regarding this issue.

Solution: The project should be considered absent any of these proposed improvements.

10. Birch Street Easement – Public Access

This is a private driveway easement. The developer does not have the right to increase traffic or burden the easement beyond traffic neutral. The proposed project funnels a street system with unlimited public access to a narrow private driveway easement. The result is an attempt to convert a private driveway for public traffic use.

Solution: The Birch Street Easement should not be considered a primary access point for the project. The project should be designed to utilize the two Jamboree Road access points as primary access for the project. This could be accomplished by controlled access at Birch Street.

During Phase 1 traffic flow should be designed to insure equal traffic access by Jazz employees to Jamboree Road.

11. Transfer of Development Rights

The project proposes the ability to transfer additional development rights to the project site.

Solution: The project should not be allowed to accept any additional development rights that would increase project density.



November 19, 2012

VIA U.S. MAIL

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

Re: Unauthorized Improvements of Easement by Uptown Newport L.P.

Dear Ms. Ung:

We represent Courthouse Plaza Association ("Plaza"). On its behalf, we provide the following analysis pertaining to Uptown Newport L.P.'s ("Uptown") Planned Development Plan.

By way of background, Plaza owns the common areas of the properties located at 5100, 5120, 5140 and 5160 Birch Street (the "Plaza Parcel") in the City of Newport Beach (the "City"). Uptown is the beneficiary of a private easement (the "Easement") over the Plaza Parcel. The Easement provides Uptown "a non-exclusive easement for passage in, over and along the following real property..., including the right to maintain driveways, roadways, sidewalks and passageways on said property."

Plaza has recently received copies of Uptown's plans to develop and make unauthorized improvements to the Easement, including but not limited to, the installation of underground sewer and water lines. This is beyond the scope of Uptown's Easement. Moreover, to the extent Uptown intends to improve the roadway, it may only do so without increasing the burden on, or unreasonably interfering with, Plaza's use of the servient tenement.

A. WHILE UPTOWN MAY MAINTAIN THE SURFACE ROADWAY, IT MAY NOT UNDULY BURDEN PLAZA WITH ITS REPAIRS AND/OR IMPROVEMENTS.

The law pertaining to easements is quite clear. In determining the extent of the servitude, the easement will be determined by the terms of the grant. "If the language is clear and explicit in the conveyance, there is no occasion for the use of parol evidence to show the nature and extent of the rights acquired." *Van Klompenburb v. Berghold* (2005) 126 Cal.App.4th 345, 349; see *Gray v. McCormick* (2008) 167 Cal.App.4th 1019, 1024; *Cal. Civ. Code* § 806.

Moreover, an "easement is a restricted right to specific, limited, definable use or activity upon another's property." *Scruby v. Vintage Grapevine, Inc.* (1995) 37 Cal.App.4th 697, 702. "The owner of a dominant tenement must use his or her easements and rights in such a way as to impose as slight a burden as possible on the servient tenement." *Id.*

Here, the purpose of the Easement is to provide Uptown a surface passage to and from its property. The Easement also provides that Uptown may maintain the driveway, roadways and sidewalks and passageways on said property. Uptown, however, may only do so to the extent that it does not create an undue burden on the servient tenement.

In *Scruby*, the dominant tenement had an easement for ingress and egress on an unpaved roadway. Without consent of the servient tenement, the dominant tenement paved a section of the roadway. The court found that while the dominant tenement could make the necessary repairs to maintain the unpaved road, the dominant tenement could not, however, substantially alter the roadway without the consent of the servient tenement. *Scruby*, 37 Cal.App.4th at 707. The court held that the paving of the roadway was not incident to the reasonable repair or maintenance of the easement but that it was an undue burden on the servient tenement. *Id.* The paving of the roadway violated the servient tenement's wine permit, which would be lost if the pavement was not removed, thereby unreasonably burdening the servient tenement.

Likewise, to the extent Uptown's improvements to the Easement create an undue burden on Plaza, Uptown should be enjoined from making such improvements. Uptown's development plan includes the construction of sidewalks on the Easement which do not currently exist. Consequently, the construction of new sidewalks constitutes an undue burden on Plaza's property. The Easement only provides for the maintenance of the surface roadway, not any sort of construction which would unilaterally expand Uptown's Easement. Moreover, Uptown's development plans will cause Plaza further undue burden from the loss of use of the Easement.

B. UPTOWN MAY NOT ALTER OR USE THE EASEMENT FOR ANY OTHER PURPOSE OTHER THAN INGRESS AND EGRESS TO AND FROM ITS PARCEL, SUCH AS LAYING SEWER AND/OR WATER LINES

The conveyance of a roadway easement "does not include the right to use the easement for any other purpose." *Scruby*, 37 Cal.App.4th at 703. Here, Uptown only has the right to use the surface of the Easement for ingress and egress to and from its parcel. It cannot, however, dig below the surface to construct sewer and/or water lines. Not only would that violate the intended purpose of the Easement, it would also unilaterally expand Uptown's usage of the Easement. Uptown may not use the Easement for any other purpose than to travel on the roadway to get to and from its parcel.

San Rafael Ranch Co. v. Ralph Rogers Co. (1908) 154 Cal. 76, 76-77 is illustrative of this point. In *San Rafael Ranch*, the dominant tenement had a "reasonable right of way along and across said lot." The dominant tenement mistakenly believed that it had a right to the water on the servient tenement's land as well and attempted to dig up the soil for the purpose of laying pipeline to conduct water over the servient tenement's property. The Court restrained the

Ms. Rosalinh Ung
November 19, 2012
Page 3


dominant tenement from constructing such a pipeline stating that "the phrase 'right of way,' as thus used, has a well-defined meaning. It contemplates a right of ingress and egress to and from the grantee's lands. It does not contemplate the right to dig trenches and lay pipe-lines for the conduct of water."

Similarly, the only right that Uptown has is the right to a surface passageway. It cannot dig below the surface to construct any water or sewer lines. *See also Allen v. San Jose Land & Water Co.* (1891) 92 Cal. 138 (finding that an easement for an above ground open ditch to conduct water would be substantially altered if the dominant tenement then laid an underground pipeline).

In light of the above, Uptown's proposed use and alterations to the Easement go beyond the scope and rights conveyed by the Easement and should be enjoined from moving forward with its proposed plans.

If you have any questions or would like to discuss the above, please call me.

Very truly yours,



Dana Y. Kim

DYK:dyk

cc: Thomas H. Cadden, Esq.
Ignacio J. Lazo, Esq.
John Adams

MEYER PROPERTIES

4320 VON KARMAN AVENUE • NEWPORT BEACH, CALIFORNIA 92660
(949) 862-0500 • FAX (949) 862-0515

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COMMUNITY

NOV 26 2012

DEVELOPMENT
CITY OF NEWPORT BEACH

November 26, 2012

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915

**Re: Uptown Newport Project
Newport Beach, California**

Dear Ms. Ung:

Our company is the owner of 4320 Von Karman in Koll Center Newport and as such we have the following concerns regarding the captioned project:

We are submitting this letter for review by the Planning Commission in the hope they will be given the serious consideration they deserve.

The following is a summary of some of the major issues we have with the project.

1. The project is not compatible with the adjacent Koll Center Newport development.
2. The project does not provide building setbacks consistent with Koll Center Newport guidelines.
3. The project exceeds the maximum density allowed by the General Plan.
4. The project does not conform to the General Plan guidelines in terms of connectivity and building massing.
5. The project seeks to provide pedestrian access where none currently exists and is not likely to.
6. The project will create a twelve fold increase in traffic without adequate mitigation.
7. The project assumes vehicular access onto Von Karman and Birch by ostensibly converting emergency and private driveway easements for public use.
8. The project does not provide adequate parking or adequate distribution of spaces.

9. The project imposes shadows on many adjacent buildings.
10. The project imposes a significant noise and vibration impact on adjacent buildings without adequate mitigation.
11. The draft EIR concludes that no other type of project and no modification to the proposed project is feasible, but does not provide any of the criteria and assumptions utilized to determine feasibility.

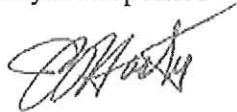
The citizens of Newport Beach approved a General Plan that envisioned a mixed-use urban village for the Airport Area not one that ignores the adjacent property owners for the sole purpose of maximizing density/profit.

The Planning Commission currently has an opportunity to help shape the proposed project so that it meets the intent of the General Plan and will preclude possible litigation from nearby property owners who own buildings that will be severely and negatively impacted by the development, as proposed.

Thank you in advance for your consideration of our concerns.

Sincerely,

Meyer Properties

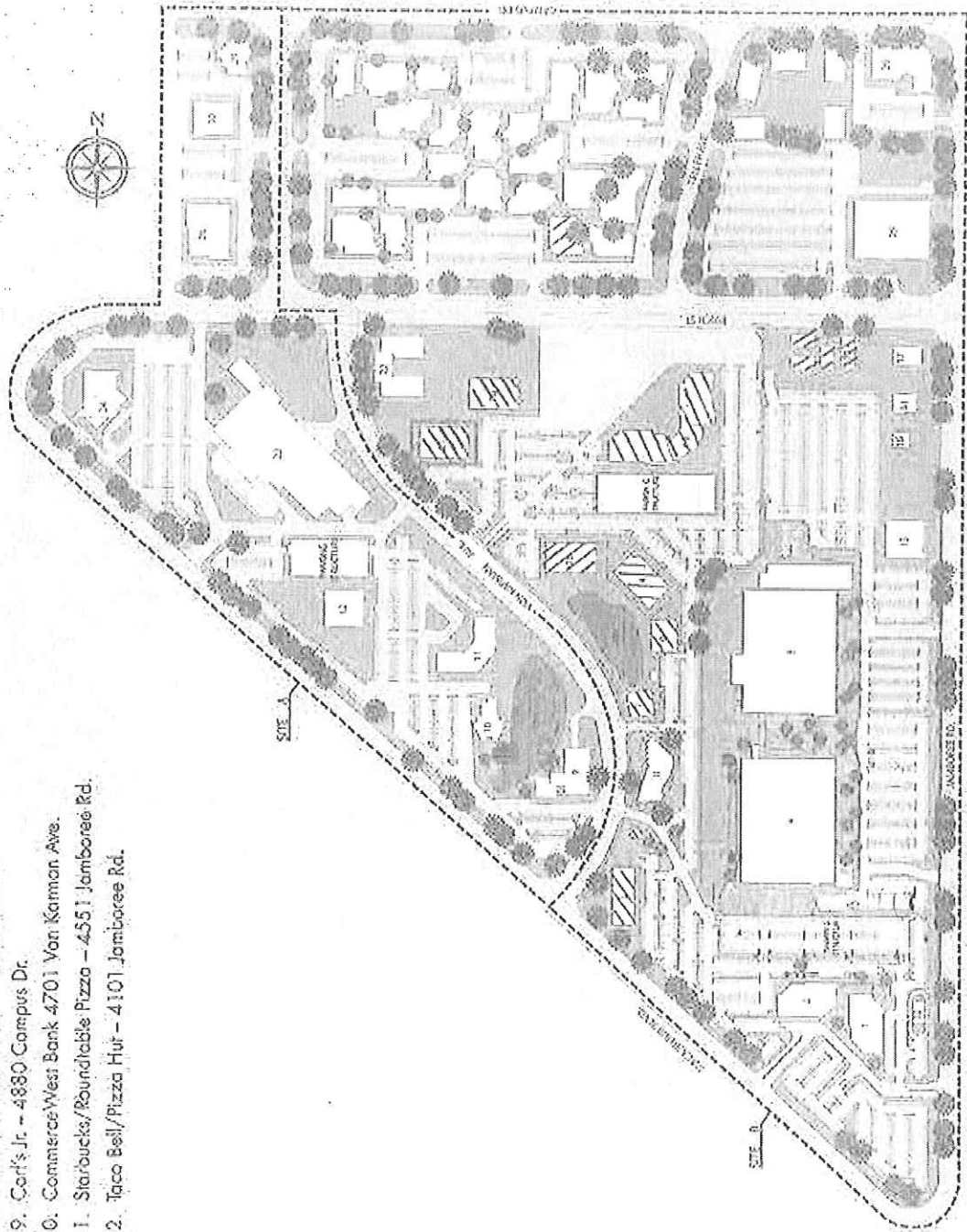


James B. Hasty
Senior Vice President

SITE PLAN - KOLL CENTER NEWPORT

SITE PLAN IDENTIFICATION

1. East Tower - 4000 MacArthur Blvd.
2. West Tower - 4000 MacArthur Blvd.
3. 4040 MacArthur Blvd.
4. Jazz Semiconductor - 4321 Jamboree Rd.
5. Jazz Semiconductor - 4321 Jamboree Rd.
6. 4320 Van Korman Ave.
7. 4300 Van Korman Ave.
8. 4220 Van Korman Ave.
9. CPH Building - 4100 MacArthur Blvd.
10. Pacific Club - 4110 MacArthur Blvd.
11. Koll Development - 4343 Van Korman Ave.
12. Bank of the West - 4400 MacArthur Blvd.
13. Jamboree Plaza - 4425 Jamboree Rd.
14. Conexant Bldg. - 4340 Van Korman Ave.
15. 4350 Van Korman Ave.
16. Weinerschnitzel - 4501 Jamboree Rd.
17. Burger King - 5180 Birch St.
18. Courthouse Plaza - 5160 Birch St.
19. 5000 Birch St.
20. 4910 Birch St.
21. 4800 Birch St.
22. The William Lyon Company - 4490 Van Korman Ave.
23. Fairmont Hotel - 4500 MacArthur Blvd.
24. Wells Fargo Bank - 4590 MacArthur Blvd.
25. Harbor Municipal Courts - 4601 Jamboree Rd.
26. For East National Bank - 4699 Jamboree Rd.
27. Limited Edition Office PUD
28. Extended Stay America - 4881 Birch St.
29. Carl's Jr. - 4880 Campus Dr.
30. CommerceWest Bank 4701 Van Korman Ave.
31. Starbucks/Roundtable Pizza - 4551 Jamboree Rd.
32. Taco Bell/Pizza Hut - 4101 Jamboree Rd.



CORNERSTONE IV PARTNERS, LLC

100 WILSHIRE BOULEVARD, SUITE 700 • SANTA MONICA, CALIFORNIA 90403
(310) 234-2525

November 27, 2012

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Boulevard
Newport Beach, CA 92658-8915



**Re: Uptown Newport Project
Newport Beach, California**

Dear Ms. Ung:

Our company is the owner of 5000 Birch in Koll Center Newport. We have reviewed the development plans for the Uptown Newport project and the associated draft environmental impact report (EIR) and have the following comments and concerns.

1. The project is not compatible with the adjacent Koll Center Newport development. The scale of the proposed building in terms of height, proximity to its property line and adjacency to the neighboring properties changes the character of the traditional business park setting where our property is situated.
2. The project does not provide building setbacks consistent with Koll Center Newport guidelines. There is too much building mass next to the eastern property line, which limits the amount of natural light reaching the Koll Center Newport properties including 5000 Birch. It will also have the effect of eliminating west facing views from the 5000 Birch office building that are highly sought after by tenants in our building. The blockage of west facing views from office suites in our building would have a direct negative economic effect on 5000 Birch.
3. The project exceeds the maximum density allowed by the General Plan. By doing so, the proposed high density presents a conflicting land use arrangement for the adjoining properties in the Koll Center Newport business park. The original buildings were purposely arranged with substantial physical separation from one another to create the quintessential "Orange County" business park design. The proposed development will seriously damage the current low density design and character of the immediately adjacent properties.
4. We object to the proposed pedestrian connection between the proposed Uptown Newport project and the existing Koll Center North business park. Introducing non-business activities in this traditional business park is intrusive and detrimental to the existing businesses in the area.

5. The project will create a twelve fold increase in traffic without adequate mitigation. Our building tenants will not appreciate such a significant increase in traffic, and may choose to relocate to other office properties with less traffic on surrounding streets. Obviously, we are concerned about the direct economic effects of such an increase in traffic due to the proposed development.
6. The project introduces vehicular access onto Von Karman and Birch by converting emergency and private driveway easements for public use. This will interfere with existing traffic flows and contribute to a detrimental changing of the character of the Koll Center Newport business center.
7. The project would impose a significant noise and vibration impact on 5000 Birch without adequate mitigation. During construction, many of our building tenants will be negatively impacted, which may lead them to choose to relocate to other office buildings.
8. The draft EIR concludes that no other type of project and no modification to the proposed project is feasible, but does not provide any of the criteria and assumptions utilized to determine feasibility. We disagree with this conclusion. There are numerous alternative development proposals involving less intensive uses (e.g., lower density, more in scale with surrounding development) which could provide a positive economic return to the property owner but have fewer deleterious effects on the adjacent owners.

We do not oppose development of any property in the area that is consistent with the uses and design parameters specified in the Koll Center guidelines and the General Plan. Unfortunately, we do not agree that the current design is consistent with the City's design guidelines. We urge you to work with the project proponent to redesign the Uptown Newport project to conform to the applicable design requirements for Koll Center North and to respect the property rights of the neighboring properties.

Thank you in advance for your consideration of our concerns.

Sincerely,

Cornerstone Partners IV, LLC

Sandy Throop
Vice President

Smith, Linden & Basso, LLP
Accounting, Tax & Business Consulting Services

Allen L. Basso
Scott H. Harada
Gordon E. Michie

November 27, 2012

SENT VIA EMAIL AND US MAIL

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658

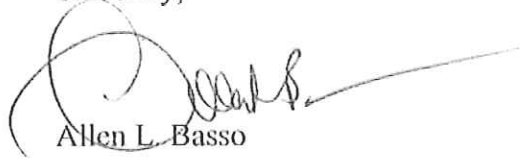
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NOV 27 2012
DEVELOPMENT
CITY OF NEWPORT BEACH

Re: Uptown Newport Project, Newport Beach

Dear Ms. Ung:

I am writing regarding the aforementioned project and the related planning commission hearing scheduled for December 6, 2012. As a property owner at 5120 Birch Street, Newport Beach, I strongly oppose the proposed project. It is the stance of myself and the association to which I belong, Courthouse Plaza Association, that the proposed project will have a negative impact on our property values. In addition, issues involving shadows, construction noise, the proposed project's density and resulting traffic are a major cause for concern. A detailed letter illustrating all points of opposition has been submitted by John Adams, President of the Courthouse Plaza Association, with which I am in sound agreement. I ask that you please take these points into consideration when reviewing the Uptown Newport project and reject their current plan accordingly.

Sincerely,


Allen L. Basso

ALB: hh



November 26, 2012

SENT VIA FACSIMILE & U.S. MAIL

Ms. Roasalin Ung
Associate Planner
City Of Newport Beach
3300 Newport Blvd.
Newport Beach, CA 92658

RE: Uptown Newport Project

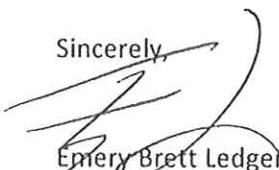
Dear Ms. Ung:

I am writing as a Newport Beach property owner in opposition to the Uptown Project scheduled for a planning commission hearing December 6, 2012. My building sits directly in the proposed project's shadow at 5160 Birch Street, Newport Beach.

The President of our Association, John Adams, has submitted a very detailed letter opposing the project on behalf of the neighboring owners as it adversely impacts density, noise, traffic and casts shadows on our parcel. I am in agreement with Mr. Adams' sound reasoning on all points and would only further that any attempt to expand the scope of the limited easement previously granted over our private driveway would constitute a taking.

We have made good faith efforts to negotiate a resolution that would lessen the tremendous adverse impact over our private driveway but to no avail. To that end, it is my hope that The City of Newport Beach respects our property interests in our private driveway and rejects the project accordingly.

Sincerely,


Emery Brett Ledger
Attorney At Law



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DEVELOPMENT
CITY OF NEWPORT BEACH

November 28, 2012

VIA U.S. MAIL AND EMAIL (rung@newportbeachca.gov)

Ms. Rosalinh Ung
Associate Planner
City of Newport Beach
3300 Newport Blvd.
Newport Beach, California 92663

RE: Uptown Newport (PA2011-134) - Draft Environmental Impact Report
SCH No. 201005194.

Dear Ms. Ung:

As you know, OCRC Capital Corporation ("OCRC"), owns a building, located at 4910 Birch St. within the Koll Center office park. We wanted to take this opportunity to reiterate our concerns regarding the above mentioned project with the expectation that they will continue to be recognized and considered by the City of Newport Beach Planning Commission.

The following is a summary of some of the major issues we have with the project.

1. The project is not compatible with the adjacent Koll Center Koll Center Newport development.
2. The project does not provide building setbacks consistent with Koll Center Newport guidelines.
3. The project exceeds the maximum density allowed by the General Plan.
4. The project does not conform to the General Plan guidelines in terms of connectivity and building massing.
5. The project seeks to provide pedestrian access where none currently exists and is not likely to.
6. The project will create a twelve fold increase in traffic without adequate mitigation.

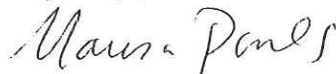
7. The project assumes vehicular access onto Von Karman and Birch by ostensibly converting emergency and private driveway easements for public use.
8. The project does not provide adequate parking or adequate distribution of spaces.
9. The project imposes shadows on many adjacent buildings.
10. The project fails to provide feasible options for where Uptown Newport's future residents will be able to attend primary and secondary school.
11. The project imposes a significant noise and vibration impact on adjacent buildings without adequate mitigation.
12. The draft EIR concludes that no other type of project and no modification to the proposed project is feasible, but does not provide any of the criteria and assumptions utilized to determine feasibility.

The citizens of Newport Beach approved a General Plan that envisioned a mixed-use urban village for the Airport Area not one that ignores the adjacent property owners for the sole purpose of maximizing density/profit.

The Planning Commission currently has an opportunity to help shape the proposed project so that it meets the intent of the General Plan and will preclude possible litigation from nearby property owners who own buildings that will be severely and negatively impacted by the development, as proposed.

Thank you for your consideration.

Very truly yours,



Marisa D. Poulos
Associate Counsel

Cc: Igor Olenicoff